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Immigration practitioners, brokers, agents: Investigating the Immigration Industry in South Africa

Research report for Master of Arts (MA) in Migration and Displacement (AC000)

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Declaration

I declare that this dissertation is my own unaided work. It is being submitted for the degree of Master of Arts at the University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination by any other University.

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Thea Siphokazi de Gruchy

Signed on the 16th of February 2015

Abstract

Most research in the field of migration studies focuses on providing either a sociology of migrants or a political analysis of the regulations which govern immigration. In this research project I have taken a different, structural approach to the field by studying the immigration industry in South Africa through the lens provided by immigration intermediaries.

This research examines who immigration intermediaries are; the role they play in and around immigration structures; and the relationship between the Department of Home Affairs (DHA), immigration intermediaries, and immigrants. By using data collected in 16 qualitative, in-depth interviews with actors in the industry, primarily immigration practitioners, the primary aim of this research is to document and analyse the role of immigration intermediaries within the South African immigration industry and the role they have in shaping emerging structures around immigration.

With intermediaries as the focus of enquiry, this research has three primary results: the first is a typology of immigration intermediaries; the second is an analysis of the relationship between the DHA and intermediaries which understands the role played by intermediaries as essentially a function that the DHA has outsourced as a result of their inability to effectively manage migration; and the third is an argument that South Africa's immigration regulations have always, and continue to, ensure the reproduction of a precarious migrant class to the benefit of the South African economy.

Research in migration studies tends to focus on either migrants or immigration policy. This research focuses instead on neglected actors and structures, the intermediaries and the institutions they operate within, and brings to the attention of the field the importance of the actors and structures that facilitate immigration in South Africa.

Contents

Acknowledgements 1

Declaration 2

Abstract 3

Abbreviations 6

Chapter One: Introduction 7

1.Rationale 7

2.Research Objective and Questions 11

Chapter Two: Literature Review 12

1.A genealogy of brokers and migration 13

2.Migration legislation and policy in South Africa 17

Chapter Three: Methodology and Methods 29

1.Research paradigm and justification of qualitative methods 29

2.Methods 29

3.Issues of reliability and validity 30

4.Sampling techniques 31

5.Data analysis and interpretation 32

6.Ethical considerations 33

a.Informed Consent 33

b.Anonymity and confidentiality 33

c.Data protection and storage 33

d.Provision of debriefing 34

Chapter Four: Identifying immigration intermediaries 35

1.Introducing Immigration Practitioners 35

2.The social dynamics of intermediaries 41

3.A fragmented industry 44

Chapter Five: Negotiating the DHA 47

1.Emulating the developed world 47

2.Closing the front gate 50

Chapter Six: Reproducing a precarious migrant class 55

1.Continuing the two-gate policy 55

2.Reproducing a precarious migrant class 57

Chapter Seven: Conclusion 61

Bibliography 63

Books 63

Journal Articles 64

Working and Discussion Papers 66

Internet sources 66

Laws and State Publications 68

Interviews Conducted 68

Appendix 71

Appendix A – Participant information sheet 71

Appendix B – Informed Consent Form 73

Appendix C – Interview Guide for Immigration Practitioners 74

Appendix D – Ethical Clearance 76

Abbreviations

ACMS – African Centre for Migration and Society

AIPSA – Association of Immigration Practitioners in South Africa

ANC – African National Congress

DHA – Department of Home Affairs

DIRCO – Department of International Relations and Cooperation

DZP – Dispensation of Zimbabweans Project

EY – Ernst & Young

FIPSA – Forum of Immigration Practitioners in South Africa

ICCRC – Immigration Consultants of Canada Regulatory Council

MiWORC – Migration for Work Research Consortium

OISC – Office of the Immigration Services Commissioner

PWC – Price Waterhouse Coopers

SADC – Southern African Development Community

SAQA – South African Qualifications Authority

TEBA – The Employment Bureau of Africa

UK – United Kingdom

US – United States

ZSP – Zimbabwean Special Dispensation

Chapter One: Introduction

1. Rationale

The 2014 amendments to immigration regulations in South Africa include the repealing of Section 46 of the 2002 Immigration Act that allowed for immigration practitioners – individuals who aid immigrants and their employers in navigating the laws and bureaucratic processes governing immigration into South Africa. This recent legislative twist brings to the fore a somewhat obscure category of operators in the broader chain of people, public administrations and organisations involved in international mobility. At times smugglers, as documented throughout South African history (Glaser, 2012 for example), at times highly specialised lawyers and attorneys; intermediaries and their role in shaping the mobility of international migrants to South Africa post-apartheid have thus far been largely under-researched in sub-Saharan Africa and migration studies in general (Lindquist, Xiang, & Yeoh, 2012). Through this research I have investigated who these actors are; the role that they play in the South African immigration industry; how this can benefit theories of migration in sub-Saharan Africa, particularly given the recent fragmentation of the migrant labour regime in the area (Crush & Williams, 2010; Segatti & Landau, 2011; Jinnah Segatti, 2013) and a persistent assumption that immigration intermediaries are corrupt and criminal (McKeown, 2012); and why this line of enquiry is theoretically important.

I understand immigration practitioners as being a range of actors who act as intermediaries, facilitating migration within South Africa's immigration industry. I use 'immigration industry' as an analytic tool to describe the variety of individuals who work around the particularities of the regulations and processes governing immigration including practitioners, migrant associations, placement agencies, labour brokers, transport companies, and smugglers. Although this report focuses on the intermediaries who provide ways for immigrants to stay in South Africa, it is worth recognising that between leaving their place of origin to arriving in South Africa, immigrants are likely to deal with a whole range of intermediaries who will help them through the process. Practitioners, and intermediaries in general, do not exist in isolation. Registered immigration practitioners, of which some claim there are 20 000 (Intergate Immigration, 2014), while other claim there are 300 (Interview 6), and still others claim that there are closer to 55 000 (Interview 8), take many forms. Some are lawyers who specialise in helping immigrants; others are full time immigration practitioners with no legal background; others have no training whatsoever but have found that they are able to provide a service, or find that in their work for

migrant organisations they spend a great deal of time helping immigrants obtain documentation.

Furthermore, the formality of their business is greatly varied. I did not limit my research to practitioners who act in a highly formalised setting and are unlikely to be involved with the immigration of semi- or low-skilled immigrants who comprise the majority of immigrants. As such, I understand 'immigration practitioner' or 'broker' to refer to individuals who, regardless of their legal standing or the kind of business they may run, broker the immigration process.

My initial feeling was that immigration practitioners would deal exclusively with highly skilled immigrants, and that the business and opinions that they offered would be primarily homogenous. And that intermediaries who operate more informally would provide a difference in business operations and opinions. However, this is not the case, and my findings are primarily about the diversity of actors and perspectives found when interviewing intermediaries engaged in the immigration industry in a more formal manner.

Migration studies have devoted a lot of attention to the role played by social networks, particularly transnational social networks (for example Fouron & Glick Schiller, 2001) in enabling and structuring migration patterns. In contrast, very little attention has been paid to the continuum of intermediaries who broker the migration process. Research done in Asia by Lindquist, Xiang, Yeoh and McKeown, which focuses on the role played by individuals who broker the immigration process, suggests that focusing on immigration intermediaries has two distinct advantages for the South African context. The first is that it facilitates a shift in perspective from migrants to those who move migrants and the infrastructure that makes this possible (Lindquist, Xiang, & Yeoh, 2012, p. 9). Secondly, intermediaries provide a stronger and more strategic 'methodological starting point' for a more systematic understanding of how migration is possible and how it is organised (Lindquist, Xiang, & Yeoh, 2012, pp. 10, 11).

Research into migration tends to be dominated by studies which are interested in either the sociology of migration that adopts migrants as its main object of enquiry and therefore the individual as its unit of analysis, or policy analysis that adopts a state perspective on the regulation of migration flows and human mobility and focuses on formal state institutions and processes at a macro level. Understanding the immigration industry and the actors and structures at play between the individual migrant and state institutions has not been a priority. However, it is essential to understanding the political economy of migration and its interdependence with the societies and economies in which migratory flows are embedded. Furthermore, the South African case provides an interesting lens through which to understand the immigration industry as a global phenomenon given that the region has recently undergone

a radical restructuring of its migrant labour regime which has seen the foreign labour force move from being primarily employed on the mines and agriculture to being employed in a range of industrial sectors most of the time outside of any protection framework (Crush & Williams, 2010; Segatti & Landau, 2011; Jinnah & Segatti, 2013). It is largely these reasons which prompted me to focus on intermediaries as a point of analysis, or point of entry into understanding the immigration industry.

Given the existence of an immigration industry globally, as well as the particularities of the South African situation - the fact that the complex immigration laws, inefficient bureaucracy, and mass deportations, as many as 200 to 300 every day (Amit & Landau, 2014; Immigration South Africa, 2013; and Segatti & Landau, 2011) have not deterred immigrants from finding ways into South Africa –indicate that there is good reason to believe that there is a similar 'immigration industry' in South Africa. However, there is limited systematic scholarly knowledge of how these determined immigrants enter South Africa. Historical research into the immigration of groups of people who were not welcomed by the state shows that social networks and brokers played a big role in the immigration process (Glaser, 2012; Lindquist, 2010; Lindquist, Xiang, & Yeoh, 2012; Mendelsohn & Shain, 2008). A sizeable amount of research has been done on the role of social networks in the immigration process and, specifically, in helping migrants to settle in a new place by offering them places to stay and opportunities in the labour market (Amisi & Ballard, April 2005; Devey, Skinner, & Valodia, 2006). But very little has been done on the role of the brokers in the immigration process and the interplay between immigrants and the social structures to which they belong, immigration intermediaries, and the state and state structures. It is this gap in the literature which my research will attempt to fill.

However, it is important to clarify the use of the terms 'broker' and 'intermediary' which I use interchangeably. In this research I use the term to refer exclusively to individuals who broker the migration process. While in reality, the individuals I refer to may also act as labour brokers (Crush, Ulicki, Tseane, & Jansen van Veuren, 2001), analytically I am referring exclusively to migration brokers. Since the late nineteenth century, individuals have acted as both brokers for labour and migration in Southern Africa. During the 1870s, for example, individuals recruited farm labourers from the Transkei, the Ciskei, Mozambique, and Namibia (then South West Africa), acting both as labour brokers and brokers of the migration process (Wilson, 1972, p. 1). More recently, in the second half of the twentieth century, agents and agencies, such as The Employment Bureau of Africa (TEBA), were set up throughout Southern Africa to recruit labourers for South African mines and farms, again brokering both labour and migration (Wilson, 1972, pp. 111, 115, 116). TEBA will be discussed in *Chapter Five*. Given the nature of

the labour market in South Africa and its reliance on migrant labour (Wilson, 1972) there may well be overlaps; part of this study touches the question of the regulation of private employment agencies and the role they play. However, my use of the terms broker and intermediary are in reference to those who 'broker' or facilitate the migration process in particular.

I start this report with a literature review in which I discuss the changes that have taken place around migration in sub-Saharan Africa in the last one hundred years, providing a background to the role played by immigration intermediaries in South Africa today by tracing the role played by similar actors in the past. My aim in this chapter is to show a gap in the literature in terms of understanding the immigration industry in South Africa as it currently stands. And to argue that through understanding this industry and who immigration intermediaries are we can come to a better understanding of the changes that have occurred in the industry as a result of the dismantling of South Africa's formal labour migration regime.

This is then followed by a chapter on the *Methods* used to identify participants and to conduct interviews with them. I also explain why these qualitative, in-depth interviews were the correct method through which to answer my research questions.

The findings of my research make up the next three chapters, which address each of my three research questions.

Chapter Four is dedicated to identifying and understanding immigration intermediaries in South Africa today by identifying who immigration intermediaries are, understanding the social dynamics at play in the immigration industry, and examining the effects of the fragmentation of the foreign labour force on the immigration industry.

Chapter Five investigates immigration services in South Africa and hones in on a recent development as a case study: the move by the DHA to outsource visa and permit services while at the same time banning immigration practitioners. It explores the relationship between immigration intermediaries, the DHA, and immigrants, the nexus of which is where intermediaries are able to find their power. Taking inspiration from Crush and Peberdy's 'two-gate policy' conceptualisation of South African immigration policy (1998), this chapter looks at the front gate and how the DHA is making legal entry less accessible to immigrants.

Chapter Six deals extensively with the back gate, and shows how the repealing of Section 46 resulting in banning immigration practitioners fits into the general trajectory of past immigration legislation and lends itself to the reproduction of a precarious migrant class in South Africa.

The *Conclusion* draws together the findings and argues that in answering my three research questions has created a better understanding of labour migration in sub-Saharan Africa in the twenty-first century.

2. Research Objective and Questions

The main objective of this project is to document and analyse the role of immigration brokers within the South African immigration industry and the role they have in shaping emerging structures around immigration.

My research questions are as follows:

i. Who are immigration brokers?
ii. How do these actors negotiate the legal frameworks governing immigration, and the multiple enforcement agents of these frameworks?
iii. Whose interests do these brokers serve apart from their own economic ones?

Chapter Two: Literature Review

I now explain why research into the immigration industry is vital. A brief historical account of the emergence of immigration brokers since the nineteenth century and a history of immigration regulations in South Africa creates an understanding of the role that brokers play today in the intersection of bureaucratic processes, immigration regulations, employers' wants, and migrants' needs.

My central argument is that a better understanding of immigration brokers and the services they offer immigrants will provide a more complex analysis of the actors and institutions that structure migration in Southern Africa and aid a better understanding of the complexities of transnational mobility.

In 2010, Bakewell argued that there is a 'structure-agency impasse' in research on and theories of migration, but that one of the ways this can be overcome is through adopting a critical realist approach and insuring that theoretical accounts of migration include the following four elements: 'first, a treatment of the structural forces promoting emigration in areas of origin; second, the structural factors enabling immigration in destinations; third, consideration of the motivations, goals and aspirations of the people who migrate; and finally, an analysis of the social and economic structures that are formed to connect areas of outward and inward migration' (Bakewell, 2010, pp. 1693, 1703). This research project can contribute to a better understanding of the fourth element – 'the social and economic structures that are formed to connect areas of outward and inward migration' – through understanding the key actors in the immigration industry and the structures through which they operate.

Bakewell argues that the challenge to researchers is 'to identify the conditions' which allow structures to emerge, that are able to exert influence over individuals and other structures, while at the same time be influenced by these individuals and structures (Bakewell, 2010, p. 1703). This research investigates whether immigration intermediaries play a role in shaping migration structures in sub-Saharan Africa.

Cohen wrote: 'I am interested in structure rather than motivation in that individuals preferences can explain only why some people choose to make themselves part of a general phenomenon: they cannot explain the phenomenon itself' (Cohen, 1987 in Paton, 1995, p. 5). By focusing on immigration intermediaries and the relationship between them, the Department of Home Affairs (DHA), and immigrants, this research will shed light on the relationship between the individuals and institutions who shape migration structures in the region.

1. A genealogy of brokers and migration

Today the term 'broker' conjures images and ideas of sex traffickers, smugglers, and organised crime rings which prey on the vulnerable and desperate (McKeown, 2012, pp. 39, 40). However, McKeown argues that the broker and middleman who facilitate migration have not always been 'a shadowy figure, associated with criminality and exploitation' (McKeown, 2012, pp. 21, 22). Until the 1880s, when the first migrant exclusion laws were drafted in America, any 'attention to migration that did arise tended to focus on the means of mobility and methods of "inducement"' and the role of brokers in this "inducement". As a result of this brokers were demonised, both as rebels and as 'profit-driven subverters of social order', perceptions which continue today (McKeown, 2012, p. 28).

During the nineteenth century, there emerged a 'stark dichotomy of free and enslaved' (McKeown, 2012, p. 22). A migrant was either a migrant of 'his own free will' or the victim of an evil broker (McKeown, 2012, p. 29). This severe dichotomy was, however, unable to make sense of the multiple manifestations of obligation, coercion and debt that were the reality of most migrants' experiences. And resulted in brokers becoming associated with the migration of those who were enslaved - constrained by a contract with a broker which undermined their free will (McKeown, 2012, pp. 22, 24, 29).

We cannot deny that many brokers work within the grey areas of the law, and always have. The very existence of "spiriting," which involved the process of essentially kidnapping Britons and taking them to America as indentured workers (McKeown, 2012, p. 26) and in 1848 the setting up of hospitals to "care for" and exploit migrants in New York (McKeown, 2012, p. 27) provide examples of this. However, analytically it is difficult to understand the broker as the sole evil in the process of migration, when legislature existed allowing for exploitation of the migrants, the conditions in which migrants found themselves having to live and work and the general perceptions society had of immigrants (McKeown, 2012, pp. 24, 25). The negative image of intermediaries in the contemporary period finds its origin in slavery. Criticism of the Atlantic slave trade focused on 'the conditions of transportation and the network of brokers and markets that conveyed slaves from the African coast to the Americas' rather than the conditions in which slaves had to work or live once they arrived in America. This resulted in the abolition of trading in slaves decades before the abolition of slavery itself by most countries (McKeown, 2012, p. 28). This negative image of slave traders continues to inform popular and political discourses on immigration intermediaries.

As the Atlantic slave trade came to an end in the end of the nineteenth century, a new source of cheap labour was found in the form of indentured Asian workers (McKeown, 2012, p. 29). Once

again, brokers took the blame for a wholly exploitative system. Furthermore, the fact that brokers were now non-Westerners meant that they were 'depicted as artefacts of non-Western and premodern cultures, opposed to the rationality and transparency of modern markets' (McKeown, 2012, p. 30). In fact, by the mid-nineteenth century, Indian brokers were held to be the "worst kind of men", 'motivated purely by profit to defraud their compatriots and hide their activities from the government' (McKeown, 2012, p. 31).

Towards the end of the nineteenth century, border controls tightened globally, as a result of which brokers became more indispensible in the migration process and found new and ludicrous 'sources of power and profits' at the intersection of increasingly complex laws and regulations (McKeown, 2012, pp. 24, 25, 35, 37). Glaser's research on Madeiran immigrants in South Africa provides an excellent local example of this.

Throughout the 20th century, Madeirans, being Catholic and darker skinned than Western Europeans, were largely unwelcome in South Africa. In the 1920s and 1930s, for example, less than 200 Madeirans met the entrance requirements for immigration into South Africa every year. However, as economic opportunities increased in South Africa, many Madeirans used illegal means to come into the country (Glaser, 2012, p. 79).

Capitalising on the desperation of Madeirans, smuggling rings began bringing people over the border between South Africa and Mozambique from the end of the 1930s. Accounts of individuals smuggled into South Africa suggest that the illegal ways into South Africa were common knowledge in Madeira where a person could pay for a trip to Mozambique that included being smuggled into South Africa (Glaser, 2012, pp. 80 - 82). The trip into South Africa itself usually involved walking across the border at night with an African guide who would pay off officials. The immigrant would then be taken to Johannesburg where they would most likely have a relative or friend who could take them in and find them some form of employment. Although being smuggled over the border was usually set up through a family member or friend, migrants were still in no position to refuse demands of extra money from the broker or smuggler (Glaser, 2012, p. 82).

While Glaser's work brings to light a variety of interesting ways in which Madeirans came into South Africa, for example hidden in crates of bananas (Glaser, 2012, p. 85), and the ways in which brokers facilitated immigration, such as by providing fake offers of employment (Glaser, 2012, pp. 86, 87), what is most interesting from my perspective is how brokers capitalised on the desperation of these immigrants. This desperation arises largely because immigrants are

unable to enter the country legally, and are therefore in the precarious situation of being undocumented. It is this desperation which gives brokers power in the migration process and provides them with economic opportunities.

Through dictating which kinds of immigrants are desirable, and which not, as well as creating a cumbersome and opaque immigration process, immigration legislation puts immigrants in a vulnerable position where, even if they are highly skilled or 'desirable', they are desperate enough to seek the services of immigration intermediaries or accept work that is dangerous or underpaid. Standing refers to those in such a vulnerable position as members of the precariat, a class of 'insecure people, living bits-and-pieces lives, in and out of short-term jobs, without a narrative of occupational development' (Standing, May 2011, p. 1). While members, of what Standing refers to as the salariat, proficiat or the proletariat, the old middle and working classes and entrepreneurs, are somewhat able to negotiate with the state, vulnerable groups who lack sufficient skills or are criminalised, as many migrant communities are (Standing, 2012, p. 2) are largely unable to. While most migrants, unless highly skilled and desired by their new community, are part of the precariat, if an analysis of actors in line with Standing's theory is extended to the immigration industry, immigration brokers who are able to live 'opportunistically on their wits and contacts' can be understood to be proficians (Standing, 2012, p. 2).

A normative understanding of immigration intermediaries as an exploitative, unscrupulous class tends to preclude any systematic research into this part of migration. In particular, it precludes an enquiry into the kind of class dynamics surrounding the making of an immigration industry within a particular immigration regime, resulting in what McKeown, Lindquist, Xiang and Yeoh refer to as a black box around brokers. These authors argue that a stark dichotomy has been created around migration between "victim" and "perpetrator", and brokers are understood as fitting squarely in the sphere of "perpetrator" (Lindquist, Xiang, & Yeoh, 2012, pp. 12, 13). McKeown talks about brokers as 'a shadowy presence that looms darkest in two places' – the list of 'individuals and organisations that need to be suppressed', like traffickers and smugglers; and the 'indispensable service providers' of temporary worker programs (McKeown, 2012, pp. 39, 40). Closer to home, registered immigration practitioners have tried to show that they are different from the 'corrupt and unscrupulous agents' who prey on immigrants by emphasising the legitimate nature of their business (Intergate Immigration, 2014).

However, in order to understand the role of brokers and the migration process, there are two reasons it is essential to open this black box. First, because the increase in the number and

diversity of migrants has seen the role of social networks and brokers growing, but also because there are many perceptions and assumptions about brokers which often influence policy decisions and legislation. In my *Findings* chapters I discuss the role which the particular perceptions which certain individuals hold of immigration intermediaries played in repealing Section 46 of the 2002 Immigration Act, as well as the effort to which practitioners go to distance themselves from the popular perceptions and assumptions of intermediaries which I have discussed.

These assumptions continue unquestioned because intellectually brokers are neglected to the detriment of efforts trying to understand 'the broader infrastructure that makes mobility possible' (Lindquist, Xiang, & Yeoh, 2012, pp. 7 – 9; Martin, 2005). One of the underlying assumptions about brokers is that their 'interests…differ from those of migrants, employers, and governments.' And given the excess supply of migrants for a limited number of jobs, brokers are increasingly in demand, and as a result are in a lucrative and exploitative position (Martin, 2005). This is, in a sense, true, the increase in the number and diversity of migrants has seen the role of social networks and brokers growing in the migration process (Martin, 2005). However, as I discuss more in *Chapters Four* and *Six*, my research provides evidence that the interests of brokers are not necessarily different from those of governments, employers, and migrants. The interests of brokers are primarily aligned with those of the employers of immigrants, but in some cases, with those of the state. Regardless, the role they play fulfils the interest of the state as much as their own economic one, I argue.

The logical assumption is that open borders eliminate the need for brokers, while closed borders exacerbate the need. However, examples of actual open border policies show this assumption to be false. For example, Moldavia announced, in 2003, a bilateral agreement with Italy through which legal jobs for Moldavian workers in Italy had been created. Many Moldavians, who had not previously now considered going, and registered for the jobs. However, when it was realised that there were ten applicants for each job, many paid brokers to go illegally (Martin, 2005, p. 10). This indicates that frustration with increasingly bureaucratic and complex processes in receiving countries fuel the use and power of brokers (Martin, 2005, pp. 16, 24).

Within Asia, research has indicated that marriage migration, student migration and low-skilled labour migration all include brokers, but very little is known about the infrastructure brokers create to facilitate this migration (Lindquist, Xiang, & Yeoh, 2012, pp. 8, 9). In Asia, specifically, the last decade has seen the 'formalisation of migration management…at the expense of

unauthorized migration'. The market for recruitment has decentralised and is increasingly facilitated by brokers who help migrants navigate the plethora of bureaucratic processes (Lindquist, Xiang, & Yeoh, 2012, pp. 11, 12). In fact, in 1997, brokers were estimated to have been instrumental in about 75 per cent of the cases of cross-border Asian migrants (Martin, 2005, p. 24). So, although the state is the centre of attention in work on migration, the power of the state is waning as citizens and brokers take 'on tasks historically associated with the state' (Lindquist, Xiang, & Yeoh, 2012, p. 12). Similar work on the role played by intermediaries in South Africa is not currently available. While systematic research has been done on immigration intermediaries in the country historically (Glaser, 2012; Mendelsohn & Shain, 2008; and Harries, 2014), there is nothing on their role within the immigration industry and in relation with the South African labour market more broadly speaking.

It is often assumed that there is a clear distinction between 'formal, legal' brokers, and 'informal, illegal' brokers. But the reality, in Asia at least, is that the two have a somewhat symbiotic relationship and form more of a continuum. Formal brokers use informal brokers with stronger social connections to a particular village to source migrants and avoid labour legislation which they, as more formal agencies, must adhere to (Lindquist, Xiang, & Yeoh, 2012, pp. 13, 14). The highly complex relationship between the state, labour, and migration in South Africa, and its history, suggests that the situation would be similar here. For example we know that in the past the recruitment of miners was outsourced to subcontractors who in turn outsource recruitment to labour brokers (Crush, Ulicki, Tseane, & Jansen van Veuren, 2001; Wilson, 1972).

Research done in Asia suggests that migration brokerage is a global phenomenon, certainly with transnational and global operations. However, specific factors within a country determine the nexus in which intermediaries find their power, for example local laws and 'recruitment populations' (Lindquist, Xiang, & Yeoh, 2012, pp. 15, 16). Consequently research needs to be done within South Africa which examines these factors and the specificities of migration brokerage.

In the following section I show the factors that gave rise to and shaped the immigration industry in South Africa. This section will provide a conceptual background against which I analyse the data that I collected from immigration brokers.

2. Migration legislation and policy in South Africa

Before getting into the particularities of the different policies, it is important to note that immigration legislation throughout the twentieth century was in the form of a "two-gate policy". The first, and front, gate was opened for those who were "desirable" by the public dispensation of the time the second, or back, gate allowed irregular migrant labour to enter and ensured that South Africa's economy continued to grow (Peberdy & Crush, 1998, p. 34). The back gate does not, until later in the twentieth century, refer to black labour immigration. While still precarious, their entry was governed by a series of bi-lateral agreements and thus legal and privileged. It was only once the state decided to stop privileging foreign labour (Harington, McGlashan, & Chelkowska, 2004, p67) that black Africans started to make use of the back gate.

Paret has written about this on-going reality in the United States (US) where immigration regulations, regardless of the form or ideological stance they take, are implemented in an effort to retain an exploitable working class (Paret, 2014). I will make a similar argument in *Chapter Six.*

Between the 1940s and mid-1960s Mexican immigration was organised around a temporary labour regime, the *Bracero* programme. The policy created 'a captive workforce' (Paret, 2014, p. 12) of migrants tied to labour contracts with minimal pay and no social cost for the employer or US state as the migrants, young, single men, were sent home once the work was done (Paret, 2014, pp. 11, 12, 15). Employers were required to ensure that they were unable to hire locals at the "prevailing wage" before turning to immigrant labour, but instead of offering decent wages and good working conditions, employers set wages low enough to discourage locals, and thus secure immigrant labour at a fraction of the cost (Paret, 2014, pp. 2, 9 - 11).

This period in US migrant policy's history was dominated by a migrant labour system, centred on migrants with legal status but precarious circumstances; since then immigration policy has become 'increasingly organised around undocumented workers' (Paret, 2014, p. 27). This became most apparent post-9/11, with increasing importance placed on documentation and legality. As such, undocumented migrants have become increasingly precarious as they fear law enforcement and deportation, accepting poor working conditions and low wages in the hope that their employer will not report them (Paret, 2014, pp. 26, 27). However, even when documented, migrants remain vulnerable to racial profiling and increased trouble from law enforcement. On top of this, given that documented migrants usually share work or living spaces with undocumented migrants, both are faced with social instability as friends, family and co-workers are deported or detained. As a result, all migrants, regardless of their status, are put

in increasingly precarious positions and increasingly forced to work in dangerous occupations (Paret, 2014, p. 21).

Paret argues that while the vulnerability of migrants was once organised around 'legality', it is increasingly organised around 'illegality'; migrants were subjected to poor pay and degrading conditions as a result of their 'legality', today 'illegal' migrants put up with dangerous working conditions and low wages in order to remain undetected and unreported (Paret, 2014, p. 22). So while the two migrant policies are remarkably different, both have facilitated the creation of a precarious class of Central and South Americans within the US, and thus been 'simultaneously destructive and productive' – destructive for immigrants, but productive as cheap labour allows for increased economic output (Paret, 2014, p. 4).

What is most striking about Paret's article is that the different approaches taken by the US state both create and maintain a precarious migrant class that is useful for the state and business sector facing economic pressures and demands from organised labour. Unprotected migrant labour allows employers to avoid the associated costs of organised labour, such as paying minimum wage, health insurance, pension contributions or investing in safety mechanisms. It allows the state to avoid the costs of labour reproduction, that include education or retirement

Use of migrant labour has often been justified with the idea that it results in development in sending areas. Members of the community who migrate to find work contribute to the community's development through remittances, and those who stay contribute through maintaining subsistence agriculture within the community (Arrighi, Aschoff, & Scully, 2010). However, in order for subsistence agriculture to be an effective economic strategy for a community, less than 50 per cent of the able-bodied work force must remain in the sending area. Once more than half of the work force has migrated for work, subsistence farming is no longer able to subsidise development and the reproduction of the labour force. Consequently, use of migrant labour does not necessarily lead to development in sending areas (Arrighi, Aschoff, & Scully, 2010).

As mentioned earlier, Peberdy and Crush describe South African immigration legislation throughout the twentieth century in South Africa as having taken the form of a "two-gate policy": the first and front gate was opened for those who were "desirable", and the second, or back, gate allowed cheap, black, migrant labour to enter and ensured that South Africa's economy continued to grow (1998, p. 34; Segatti, 2011, p. 34). It is this back gate that is both 'destructive and productive' in the South African context – the cheapness of the labour ensured as a result of the precarity in which these migrants find themselves.

1913 Immigration Regulation Act was one of the founding pieces of legislation in South Africa. It served two purposes: to consolidate the immigration laws of the different colonies; and to stop the immigration of Indians and other 'non-whites' into South Africa. This was with the exception of labourers from Botswana, Lesotho, Namibia and Swaziland, who, until 1963, were free to move into South Africa to work in the country's growing, labour intensive industries (Glaser, 2012, pp. 75, 76; Peberdy, 2009, pp. 38 - 40, 142, 145; and Peberdy & Crush, 1998, p. 21). Black Africans were understood as "non-citizens" or "aliens", subject to the same restrictions and policies as black South Africans. In fact, until the 1980s all Africans, regardless of whether they were South African or not, were seen exclusively as 'temporary sojourners who could be dumped back over the border when they were no longer useful' (Peberdy & Crush, 1998, p. 19).

The Act's power came from Section 4 which gave the Minister of the Interior the power to exclude anyone who was non-suitable from immigrating. Throughout the 20th century, this Act was used to exclude black migrants and a variety of 'unsuited' white migrants (Glaser, 2012, p. 76; Peberdy, 2009, pp. 46 - 48, 54). In 1922, for example, then Minister of the Interior used Section 4 to exclude 'communists' and 'diseased' individuals from Eastern Europe (Peberdy, 2009, pp. 57 - 60), essentially a response to growing anti-Semitism after the First World War and a way through which Jews could be denied entry into the country. It also, inconsistently restricted the immigration of Catholic Madeiran immigrants from the 1920s right up until the 1970s (Glaser, 2012, p. 75).

After the 1924 elections, the new National Party / Labour Party coalition government introduced the Immigration Quota Act of 1930 to restrict the entry of East European Jewish immigrants (Peberdy, 2009, pp. 61 - 63). The new Act ushered in a two tier immigration system allowing anyone from one of the countries listed in the 1930 Act to immigrate, but only 50 immigrants per annum from countries which were not listed in the Act, primarily the Eastern European countries from which Jews were emigrating (Glaser, 2012, pp. 76, 77; Mendelsohn & Shain, 2008; and Peberdy, 2009, p. 64). Although most of the Jewish community found their way to the United States, positive newspaper coverage of South Africa, and a partnership between the Poor Jews' Temporary Shelter in London's East End and the Union-Castle shipping line, encouraged as many as 40 000 Jews to relocate to South Africa before the First World War had even started (Mendelsohn & Shain, 2008, p. 33).

The Quota Act was largely successful, until the rise of Nazism in Germany led to a mass emigration of Jews from Europe. As Germany was one of the countries listed in the 1930 Act, numerous German Jews came to South Africa (Glaser, 2012, pp. 76, 77; Mendelsohn & Shain,

2008, p. 106; and Peberdy, 2009, p. 65) much to the disappointment of the South African government who came to rely on its embassies to follow an unofficial policy of discouraging Jews from immigrating (2009, p. 66). Simultaneously, the growing ideas of racial science and eugenics led to a discourse around the protection of 'the original stock' of the Union and maintaining the purity of the 'great races' of the British and the Afrikaner (Glaser, 2012, p. 76; Peberdy, 2009, pp. 70 - 76).

In response to rising anti-Semitism in 1937 the Quota Act was replaced by the Aliens Act, which required any immigrant, unless they were British, to obtain a permit in order to enter the country. The permit process was intended to stop any "undesirable elements" from entering the country; people who were not of 'good character', 'desirability' or were unlikely to assimilate into white South African society (Glaser, 2012, p. 77).

In 1946, in response to a large number of white people leaving South Africa between 1941 and 1945, the United Party government implemented a more aggressive policy to encourage and even subsidise the immigration of Western Europeans (Glaser, 2012, p. 77; Peberdy, 2009, pp. 87, 88). The Immigration Council set up Immigration Selection Committees in London, The Hague, and Rome which were tasked with promoting and facilitating the process of immigration (Peberdy, 2009, pp. 89 - 91).

Unsurprisingly, immigration was a key issue in the 1948 national election. The Union Party, and their policy of encouraging immigration, lost the election to the National Party who brought with them a vision of South Africa as 'bounded and exclusionary' (Peberdy, 2009, pp. 93 - 98, 107). The period after the election thus saw a dramatic shift in the country's immigration policy, which restricted entry to those who, it was thought, would have divided loyalties, in other words, those who would not assimilate into the Afrikaner culture (Glaser, 2012, p. 77; Peberdy, 2009, pp. 98, 99). As a result, in 1949 new legislation was passed in the form of the South African Citizenship Act. This Act sought to equalise the terrain between British nationals and other foreigners. The former had, up until the pasting of this Act, been granted South African citizenship automatically, while the latter were not. Now all immigrants had to have lived in the country for at least five years and have 'adequate knowledge of the responsibilities and privileges of South African citizenship' in order to be granted citizenship (Peberdy, 2009, p. 101).

As a result of the exclusive attitude and policies of the National Party government and a growing economy, South Africa faced a skills shortage in the 1950s, placing the government under

significant pressure to actively encourage immigration (Peberdy, 2009, pp. 103, 104). However, emphasis was placed on 'selective immigration' which would preserve the Afrikaner identity of the country. Immigrants were welcomed if they would understand and sympathise with the state's racist ideology and assimilate into the Afrikaans culture (Peberdy, 2009, pp. 105, 106, 109, 110).

Towards the end of the 1950s and during the 1960s, there was a significant shift in the state's position on immigration, which now came to be understood as the 'life blood' of civilised, white South Africa (Peberdy, 2009, p. 111). Following in the steps of earlier governments, the National Party now implemented an immigration policy that actively encouraged immigration and even provided financial assistance to immigrants, including Madeirans (Glaser, 2012, p. 77). The government was particularly sympathetic to illegal white immigrants during this period, creating two amnesty periods – one in 1961 and the other in 1968 – during which illegal white migrants could register and gain legal status (Glaser, 2012, p. 90)

However, the metaphysical body of the state which needed to be maintained and protected, was never forgotten, and, by the end of the 1960s, the threat of the 'Catholics and non-Afrikaans speakers' manifested once more in restrictive policies. These policies were only relegated in the mid-seventies when the white population experienced mass emigration (Glaser, 2012, pp. 78, 90). By the 1980s, anyone who was white, or even an "honourary white", as Asian populations were termed, was welcome in an effort to strengthen South Africa's white population (Crush & McDonald, Introduction to special issue: evaluating South African immigration policy after Apartheid, 2001, p. 2). In fact, in 1986 legislation was amended in an effort to show the dying Apartheid regime's willingness to change its racially exclusive policy. The racial criterion was replaced with skills and financial criteria which in practice, given the legacy of apartheid and Bantu education, had the same effect, limiting immigration to white population groups (Segatti, 2011, p. 37).

During the eighties and nineties, South Africa experienced a radical shift in its migrant labour regime which has also served to strengthen the role played by brokers in the immigration process. In 1976 Burawoy showed that both the South African and Californian migrant labour systems relied on the separation of labour and reproduction (Burawoy, 1976)[1]. While industry

[1] If an industry makes use of a local labour force, the cost of both maintenance, for example housing and wages, and reproduction, education and welfare benefits, of the labour force lies with the employer, government, community and local economy. A migrant labour force, however, allows the employer and economy which benefits from the labour to avoid the more onerous costs of reproduction (Burawoy,

would take responsibility for the minimal costs of labour maintenance, such as accommodation on the mines, the far more extensive cost of labour reproduction, family maintenance and health care for example, was left with the labour sending communities (Burawoy, 1976; Jinnah & Segatti, 2013; and Paton, 1995). This system essentially enriched the receiving economy in South Africa and impoverished the migrant-sending communities who lost local labour forces, could no longer maintain traditional subsistence farming, and were left with the cost of labour reproduction for the receiving economy (Paton, 1995, p. 6).

In the last thirty years, however, the migrant labour system in South Africa has undergone a radical restructuring, emphasising the hiring of local labour, to the detriment of the foreign labour force (Crush & Williams, 2010; Jinnah & Segatti, 2013). The mining industry, which has traditionally been the most labour intensive industry in the region, has also faced continual downscaling resulting in job losses for the low or semi-skilled work force who usually found work in this sector (Jinnah & Segatti, 2013). However, sectors such as the agricultural and hospitality sectors have experienced growth to the extent that there is an unprecedented demand for semi and low skilled labour in these sectors (Jinnah & Segatti, 2013; Oucho & Crush, 2001).

The fragmentation of labour intensive job opportunities now spreads over several sectors rather than being concentrated in one. This coupled with the move to hire local labour, has meant that labour recruitment is no longer handled by a single intermediary, for example The Employment Bureau of Africa (TEBA). Instead informal networks and mechanisms for recruitment are central to these sectors and the labour force (Jinnah & Segatti, 2013). This is discussed in *Chapter Four*.

The 1991 Aliens Control Act was the last immigration legislation in which the Apartheid government was involved. The Act included the main points of the 1937 Alien Act and the 1972 Admission of Persons to the Republic Regulation Act, which maintained the main points of the 1913 Act, and is understood by many academics as allowing 'the dying apartheid regime to set the tone for post-1994 debates and practices' around immigration (Crush & McDonald, 2001, p. 1; Peberdy, 2009, p. 144; and Segatti, 2011, p. 38).

1976, pp. 1051, 1052). Although Burawoy defines the system of migrant labour and its 'productive and destructive' elements in institutional terms, others have argued similarly in economic terms, for example Wolpe, 1972.

Immigration policy in South Africa post-1994 had its tone set by the Apartheid government. The 1913 Act continued to form the basis of immigration legislation in the country until 2002[2], and any immigration policy or practice implemented since 1994 has been 'mostly exclusionary, based on a strong national, protectionist and territorial vision' (Peberdy, 2009, p. 147). For the most part however, post-1994 governments have avoided the issue altogether (Crush & McDonald, 2001, p. 2; Segatti, 2011, p. 31; and Segatti & Landau, 2011, p. xiii). In fact it was only in 1997 that the African National Congress (ANC) led government started to deal with the matter by issuing a Green Paper on International Migration followed by two White Papers, one of which would eventually result in the 1998 Refugees Act (Peberdy, 2009).

In the years following Apartheid, South Africa has become 'the new migration hub,' attracting migrants from Africa as well as parts of Asia and Europe (Segatti, 2011, p. 9). However, despite this and the development potential this offers, only three significant departures have been made with Apartheid era immigration policy. The first is that race has been eliminated from any talk of immigration (Crush & McDonald, 2001, p. 4). The second effort that was made to break with the past was the creation of three immigrant amnesties, offered at various points during the 1990s to 'victims of apartheid immigration policies' (Crush & McDonald, 2001, p. 5)[3]. Finally, the post-Apartheid government has committed to international refugee protection frameworks (Crush & McDonald, 2001, p. 5).

However, post-Apartheid South Africa continues to make use of contract migrant labour from neighbouring countries with small changes, such as the inclusion of female migrants in the foreign labour force (Crush & McDonald, 2001, pp. 7, 8). The post-1994 government has continued with draconian measures to clamp down on irregular immigrants. In the six years after 1994, 600 000 non-nationals were deported from South Africa, actions justified by the idea of a 'flood' of "illegal aliens" abusing the refugee system and South Africa's hospitality (Crush &

[2] Although the Aliens Control Act was in fact declared unconstitutional in 1993, following the implementation of the Interim Constitution, and again in 1996 when the new South African Constitution was brought into effect, it effectively governed immigration until it was replaced in 2002. What Segatti, Hoag and Vigneswaran describe as a 'legal void' was experienced until it's replacement with the 2002 Immigration Act (2012, p. 129).

[3] Between 1995 and 1996 three amnesties were offered to undocumented and irregular immigrants in South Africa. The first was to miners who had worked in the country for at least ten years. The second was offered to citizens of SADC countries who could prove that they had been in the country for at least five years. The third and final amnesty was for Mozambicans who, fleeing the civil war in their home country, had entered South Africa before 1992 (Crush & McDonald, 2001, p. 5).

McDonald, 2001, pp. 6, 7). While research shows that this is largely untrue, the idea that the rest of Africa poses a threat to South Africa continues post-Apartheid (Crush & McDonald, 2001, p. 7).

These continuities are primarily as a result of the post-Apartheid government taking no decisive action on the issue of immigration until 2002 when the Immigration Act was passed. The first move within the government was in 1997 when a Green Paper on International Migration was issued, part of the ANC government's concerted efforts to show its stance on immigration to be different from that of the previous Minister of Home Affairs, Buthelezi (Segatti, 2011, p. 51). The paper called for separate legislation to be developed in dealing with refugees, the development of a skills-based immigration policy, an approach to enforcing immigration laws that respected the rights of non-nationals, and sensitivity to the migration realities of the region. In keeping with government's avoidance of the issue, the Act took a further two years to pass (Crush & McDonald, 2001, p. 10).

South Africa has not shown itself to be particularly sensitive to the realities of migration within the Southern African region (with the exception of grand attempts to regulate migration through schemes like the Zimbabwean Dispensation Permit of 2010, discussed in some detail later). In fact, the country's response to proposals of regional integration show what Oucho and Crush describe as, 'the myth and paranoia that characterize thinking' about migration in South Africa (2001, p. 139). During the 1990s SADC developed a series of protocols which would promote integration within the region and provide a framework within which cross-border migration would be accepted, similar to approaches which have been successful in other regional groups in Africa, like the West African Economic Community (Crush & McDonald, 2001, pp. 140, 141). Of all the regional groups in Africa, SADC has been the only one which has refused to agree to ideas of free movement within their region; the reason for this attributed to South African 'paranoia' (Oucho & Crush, 2001, p. 142).

In response to a Free Movement Protocol being drafted by SADC, the DHA funded a study to look into the implications of the Protocol for the country. The study claimed that South Africa was taking the 'moral high ground' by remaining vigilant against "illegal aliens." And argued that this was an global trend(Oucho & Crush, 2001, p. 145). The report also claimed that one of the central premises of the Protocol – that freedom of movement has historically been a reality in Southern Africa – was wrong, and that the Protocol would result in an increase in economic migrants to South Africa, adding pressure to unemployment rates (Oucho & Crush, 2001, pp. 145, 146). Scholarly work has shown that neither of these two claims nor other assertions made

by the report are correct (Oucho & Crush, 2001, pp. 146 - 148). On top of this, the DHA argued that South Africa, as a "receiver" of migrants, could not advocate for free movement as foreigners take jobs from South African citizens and are a health risk.

South Africa drafted a Protocol to replace the one drafted by SADC. As expected, the protocol shifted away from labour market integration, ignored international and regional labour standards, and was consistent with the country's post-Apartheid migration stance which seeks, as its primary goal, to put an end to immigration, with the exception of the immigration of highly skilled individuals, rather than facilitate it (Oucho & Crush, 2001, p. 150). South Africa's unwillingness to co-operate regionally also manifested itself in the Green Paper and proceeding White Paper. The processes followed in the drafting of both of these papers excluded consultation with regional counterparts, other governments, or relevant organisations (Oucho & Crush, 2001).

South Africa has displayed little interest in facilitating migration, or even acknowledging it as a reality. Instead, the state continues using resources attempting to stop the inevitable, and neglects immigration related issues until immediate action is needed and an *ad hoc*, often bilateral, agreement is drawn up (Segatti, 2011, p. 23). It is in this context that brokers are able to find their power. In fact, Polzer argues that many of the ANC's immigration policies have had 'counterproductive effects' as these legal frameworks often work from false assumptions (Polzer, 2007, p. 22). Polzer is talking primarily from the perspective of legislation aimed at Mozambican refugees within South Africa who are the subject of amnesties and agreements not necessarily extended to all refugees, such the 1993 Tripartite Agreement (Polzer, 2007, p. 23).

Polzer shows that refugees and the rural communities who often come into contact with them, given that migration between municipalities is far more frequent than between provinces or across borders (Segatti, 2011, p. 17), are usually unaware of the law and its content, and thus 'mete out their own interpretations of the law with a great deal of impunity' (Polzer, 2007, p. 24). Because migration to South Africa is often the only practical livelihood strategy available to these immigrants (Polzer, 2007, p. 30), instead of new legislation and policy having the desired effect, it leads to the development of creative ways through which immigrants gain some sort of legitimacy (Polzer, 2007, p. 28). It is often in the search for these creative ways around immigration legislation and enforcement agencies that intermediaries are able to find an economic niche. As members of the precariat, migrants are largely unable to influence policy in their country of destination. However, migrants are able to negotiate with the communities

within which they settle and together respond to legislation that does not suit their needs (Polzer, 2007, pp. 49, 50).

In more recent years, the ANC has had to make a more public stance on immigration, but while the party itself is ideologically committed to universal rights and pan-Africanism, its members and constituency express xenophobic views. Even after the 2008 xenophobic violence, the ANC has retained a vague position (Segatti, 2011, p. 53).

Since 1913, and continuing post-1994, South African immigration policy has expanded the power of the state in enforcing immigration policy and increasingly disregarded 'accountability, transparency and due process' (Peberdy & Crush, 1998, p. 19). For example, Crush and Peberdy argue that the Apartheid pass laws, while abolished for South Africans, have been employed in immigration enforcement as migrants are repeatedly stopped and hassled for their papers (Peberdy & Crush, 1998, p. 30). Similarly, Segatti argues that the methods used and experience gained by the state in dealing with black South Africans during Apartheid was 'redeployed' and now used in dealing with immigrants (2011, p. 43). This indicates that the creation of a precarious migrant class is not just an accidental by-product of legislation, but is rather purposefully pursued by the state, through law enforcement agents, as they make the reality of being undocumented in South Africa increasingly difficult.

While it is unsurprising that examples of this can be found in work done on Apartheid era South Africa, and I have discussed several of them already, more interesting, is that they are found post-1994, after the transition to a democratic, non-racial state.

Although South Africa, unlike many other African countries, had the ability to exercise a certain amount of control at its borders, what Segatti describes as 'its moral commitment to democracy at home and in the region' has stopped the state from freely implementing anti-immigration and anti-foreigner legislation (2011, p. 43). Instead, it took most of the 1990s for the state to admit that the 1991 Aliens Control Act was in fact unconstitutional and replace it (Peberdy & Crush, 1998, p. 33), and during this time immigration enforcement was characterised by mismanagement, abusive treatment of migrants, and poor administration (Segatti, 2011, p. 54).

In 1995, an Amendment Act was passed in an attempt to reform the aspects of the 1991 Act that were not compatible with the new South African Constitution. However, the Amendment Act largely confirmed 'the political hardening of immigration initiated in 1991' (Segatti, 2011, p. 55). The adoption in 1998 of the Refugee Act was then used to justify harsher treatment of

undocumented migrants on the understanding that "legitimate" immigrants, like refugees, were now able to claim asylum and become documented (Segatti, 2011, pp. 52, 55). It was only in 2002 that a real break was made from the 1991 Act with the enactment of the Immigration Act of that year. Although many maintain that this new Act achieved little in terms of migrant rights and opportunities, Segatti argues that there are three respects in which it did change: 'refugee matters, public accountability and due process of migration policy, and the government's position on xenophobia' (Segatti, 2011, pp. 46 - 48). However, despite the involvement of an increased number of stakeholders in the form of advocacy groups and the media, and an increasing body of case law which has set precedent for the protection of migrants, only those who are able to afford legal fees or convince an NGO to help them have really benefitted. For those without documents, the justice system is unlikely to intervene (Segatti, 2011, pp. 48, 49).

As previously mentioned, the 2002 Immigration Act was the first to mention and attempt to regulate intermediaries of any kind. This Act, and the effects that it had on intermediaries will be further discussed and analysed in *Chapters Four* and *Five.*

In conclusion, while systematic analytical research into those who broker the immigration process in South Africa is not available, the history of the issue in Southern Africa, as well as research done in Asia, suggests that work on this issue will be beneficial in understanding migration in South Africa. Understanding the structural conditions of immigration, of which immigration intermediaries are a large part, allows a greater understanding of the systems that immigrants use to gain entry into South Africa. It will also explain the growth of an industry which fulfils not only the economic needs of the actors within the industry, but also the interests of the state and labour intensive sectors in maintaining a 'two-gate' policy.

Changing policy, misinformation, and increasingly harsh criteria for immigration have all created a space for immigration brokers to serve their own economic interests. What is unclear is exactly how these immigration brokers operate or whose interests are served It is these questions my research seeks to answer.

Chapter Three: Methodology and Methods

1. Research paradigm and justification of qualitative methods

Given the evident gap in the literature, this project has been exploratory in nature (Hesse-Biber & Leavy, 2011, p. 10). Through qualitative methods, I have attempted to map out the role played by a range of key actors, individuals and organisations in facilitating the immigration of foreigners into South Africa and to assess whether patterns and strategies can be identified. As a result, I have relied heavily on the perceptions of 18 key informants, who I interviewed during 16 in-depth interviews. Although I believe these perceptions valuable, I am aware of their limitations, and, as such, situate myself and this research project within a post-positivist framework; understanding that the information I have received is limited and acknowledging the influence that I have had on the research.

2. Methods

The first method I used was text or thematic analysis. I analysed policy documents and previous research done both historically and contemporarily in the hope of better understanding the of the black box around brokers in South Africa (McKeown, 2012; Lindquist, Xiang, & Yeoh, 2012). McKeown and Glaser describe that the power brokers have is in understanding complicated bureaucratic processes, and in being able to navigate the 'web of laws' which inevitably govern migration. I have therefore tried to map out exactly what this 'web of laws' and bureaucracy looks like in South Africa at the moment.

However, the primary method I employed in this study is in-depth, semi-structured key informant interviews. The purpose of this research was exploratory, to investigate and understand a phenomenon about which very little was known (Hesse-Biber & Leavy, 2011, pp. 10, 96). In-depth, key informant interviews are known to provide valuable data for exploratory research in that it is particularly descriptive and explanatory (Hesse-Biber & Leavy, 2011, pp. 96, 98). These kinds of interviews are also particularly useful in gaining information about marginalised communities, which migrants and immigration brokers who do not operate legally are (Hesse-Biber & Leavy, 2011, p. 98), and process tracing – exploring a particular process or mechanism about which very little is know (Bloemraad, 2012, p. 513).

Key informants here are understood as individuals who have particular knowledge about immigration into South Africa and the role that immigration practitioners play, individuals who could help me understand immigration and the processes immigrants, and the intermediaries helping them, go through in order to obtain documents (Patton, 2002, p. 321). As a result, the key informants that I interviewed included immigration practitioners, representatives from

migrant organisations and NGOs which help migrants, representatives of The Employment Bureau of Africa, and an immigration attorney. My choice of key informants is discussed further under the section on sampling.

When conducting an interview, Burawoy talks about creating an environment in which the interviewee is able to tell their story rather than having to reduce their story to a series of disjointed responses to set questions (Burawoy, 1998, p. 13). As my research was exploratory in nature, I used a semi-structured interview guide in an attempt create this environment. The guides, composed of a list of open-ended questions and issues that I wanted to discuss structured the interview while trying to elicit a narrative response (Hesse-Biber & Leavy, 2011, p. 102; Sanchez-Ayala, 2012, pp. 123, 124). Hesse-Biber and Leavy claim that semi-structured interviews allow for data collection and analysis to happen simultaneously (2011, p. 123), something I found to be true as I was able to respond to the informants during the interviews, and I found myself constantly updating the interview guides.

Specific interview guides were produced for different key informants. For example, while I may have used the same guide when interviewing immigration practitioners, although this was constantly updated in line with new information I had received from a previous interview, I used a different guide when talking to representatives from migrants organisations or NGOs.

Patton suggests key informant interviews are most productive when the informants 'understand the purpose and focus of the inquiry, the issues and questions under investigation, and the kinds of information that are needed and most valuable' (Patton, 2002, p. 321). As a result, I started each interview by explaining what I hoped to learn from the interview and what I planned to do with that information. I found this allowed participants to feel invested in the research and led to productive interviews.

3. Issues of reliability and validity

Patton also warns, however, that researchers should remember that the perspectives of their informants 'are necessarily limited, selective, and biased' (Patton, 2002, p. 321). This was certainly the case in my research, particularly when it came to questions about the reasons why the Department of Home Affairs had repealed section 46, or what the effects of this change in legislation would mean for intermediaries.

The fact that I was able to interview multiple individuals, as a result of data triangulation, limited my reliance on one participant's perspective as well as improving the validity of the project (Hesse-Biber & Leavy, 2011, p. 52). Validity, in qualitative research, is gained by

exposing findings from a particular interview with findings, and the interpretations that they result in, from other interviews, and then being able to argue, particularly if two findings are contradictory, what collectively is a strong interpretation of these findings (Hesse-Biber & Leavy, 2011, p. 48). Identifying contradictions as well as issues on which interviewees agreed allowed me to identify common patterns and inductively generalise a theory rather than being caught up in the particularities of a single case (Burawoy, 1998, p. 19). The contradictions between information provided by different interviewees are discussed extensively in Chapters Four and Five.

Data triangulation also limited the potential of the halo, or Hawthorne, effect. The halo effect is a phenomenon observed during research in which the participant's behaviour changes as a result of being part of a study rather than any direct intervention itself. The effect is usually understood to result from increased attention on a person's behaviour or information unintentionally communicated by the researcher (Barnes, 2009, pp. 1, 2). As my research involved asking participants to relate their involvement in or experiences of the immigration industry, I expected that participants might present narratives that either showed them behaving within the bounds of the law when in fact they do not, or vice versa, depending on the image the participant wished to convey. Through using multiple data sources, I was able to reduce the potential of this halo effect.

Finally, the interviews primarily took place at the participant's place of work or in a coffee shop to ensure that the information shared by the participant was confidential (in other words not overheard by anyone else) but the place was sufficiently public in the event that either party felt uncomfortable (Hesse-Biber & Leavy, 2011, p. 99).

4. Sampling techniques

I used purposive sampling to identify and select potential interviewees. I was able to conduct 16 interviews with individuals I believed had an in-depth and detailed understanding of the immigration industry, 'illuminate the questions under study' (Patton, 2002, pp. 46, 230).

The sample was also stratified in that I tried to ensure that my participants covered a variety of the actors involved in the immigration industry. Hesse-Biber and Leavy describe the purpose of stratified sampling being 'to capture major variations' (2011, p. 240), which was largely the purpose of my sampling, to capture the variations in the experiences and perspectives of the informants. In hindsight, my sample could have been better stratified. Once I had conducted a couple of interviews with practitioners I found myself being referred to people they knew in the industry and before I realised I had conducted eight interviews with practitioners alone. That

having been said, each of the practitioners I spoke to offered new information or a different perspective.

My hope was that the interviews would give me: insight into the workings of the bureaucratic immigration processes, both legal and illegal; the interpretation of the law by those working with it; and the ways in which the immigration industry is dealing and will continue to deal with the change in immigration law.

A list of the interviews conducted can be found at the end of this report as part of the *Bibliography*.

5. Data analysis and interpretation

Because very little is known about the immigration industry in South Africa, my analysis was primarily inductive as opposed to deductive. In other words, I was 'coding the data *without* trying to fit it into a pre-existing coding frame', trying to identify patterns and variations (Braun & Clarke, 2006, p. 88). Patton describes inductive analysis as 'immersion in the details…guided by analytical principles rather than rules' and building 'toward general pattern' (2002, pp. 41, 56, 454). Through analysing the data without specific themes and codes dictating the course of the analysis, I was able to do justice to the exploratory nature of my research (Patton, 2002, p. 56).

I began by analysing and interpreting the individual interviews and then started a 'cross-case analysis…in search of patterns and themes' (Patton, 2002, p. 57). One of the benefits of inductive analysis is that the identified themes and patterns are grounded and thus able to generate theory rather than confirm or disprove existing theory (Patton, 2002, pp. 57, 125). This is commonly understood as grounded theory – research which 'focuses on the process of generating theory rather than a particular theoretical content' (Patton, 2002, p. 125). In grounded theory, the theory becomes the result of the research rather than dictating the research (Burawoy, 1998, p. 25). I found this to be true my research as through the analysis I was able to generate ideas and theories around the immigration industry and then test them against subsequent interviews and information.

The inductive analysis that informed this theory generation was thematic content analysis. Through this I refined the data produced in the interviews into core themes, patterns and categories (Patton, 2002, p. 453). Given the exploratory nature of the research, emphasis was placed on inductive analysis and I tried to limit my pre-conceived ideas of the important themes and patterns when I first encountered new data. The thoughts and feelings about issues which I

have developed through time spent reading research on immigration were often not an appropriate lens through which to understand the comments of immigration practitioners who have worked with immigrants and DHA and as such, I tried to limit the effects of these ideas in order to really understand the position of practitioners and other intermediaries.

6. Ethical considerations

As previously mentioned, the main objective of this project was to investigate the immigration industry in South Africa through the role played by immigration brokers. My interviews were conducted with various actors, asking questions about the actions and business dealings of participants and the un-regulated nature of the industry. My commitment to anonymity and confidentiality, as well as the information that I provided participants with about the project, means that there was no harm is envisaged for participants in this project.

a. Informed Consent

Informed consent is the process of allowing a participant 'to make an 'autonomous' decision…with enough relevant information, enough understanding…and no pressure to participate' (Farrimond, 2013, p. 109). In order to facilitate this, prior to conducting the interview I discussed the interview process and informed consent with potential participants; I also asked the participant whether they were comfortable with a recording being made of the interview. I explained to them the objective of my research and what I hoped to gain from our interview so that they were able to make an informed decision about whether or not they wanted to participate. I also provided potential participants with a participant information sheet (see Appendix A), and asked them to sign a consent form (see Appendix B).

b. Anonymity and confidentiality

Although I committed to ensuring the anonymity of the participants in my study and the confidentiality of the information that they shared with me, most participants consented to having their names and details shared. With regards to participant details I will be excluding from the analysis, I developed a key system for these details and kept those in a separate place to the data itself.

c. Data protection and storage

All data was kept on my computer and on an external hard drive, kept in separate places except when I backed up my work onto the external hard drive daily. Both my computer and external hard drive are protected by passwords. Once the study is finished, I will keep the data exclusively on my hard drive. The key, developed for confidential details, is kept exclusively on the hard drive.

Finally, participants were informed of the purpose of the study and assured that all efforts would be made to prevent the data from being used for any other purpose. I did, however, make them aware of the fact that I would have to share the data with my supervisor in order to ensure sound analysis and interpretation (Farrimond, 2013, p. 135).

d. Provision of debriefing

Participants were encouraged throughout the interview process and after the interview to ask me any questions they might have regarding their particular interview or of the research project in general.

My telephone number and email address, as well as those of the African Centre for Migration and Society (ACMS), were provided on the participant information sheet (see Appendix A) so that the participants could follow up if they wish to do so. They were also assured that they could withdraw their contribution from the study at any time prior to its completion if they wished to do so.

Chapter Four: Identifying immigration intermediaries

This first *Findings* chapter is dedicated to identifying and understanding immigration intermediaries in South Africa today. The chapter essentially does three things. It firstly identifies who immigration intermediaries are in their various guises, and how these different kinds of intermediaries interact. It secondly analyses the social dynamics of the industry, providing a sociological profile of intermediaries. Finally, the chapter looks at the effect that the fragmentation of the foreign labour force has had on immigration intermediaries. This chapter will provide a sufficient typology of immigration intermediaries so that *Chapter Five* can investigate the relationship between these identified intermediaries, the DHA, and immigrants.

Given the exploratory nature of my research project, one of the most important questions I wanted to answer was who exactly are immigration intermediaries. At most stages of the immigration process there are actors looking to help immigrants. They will take their SAQA[4] application through to Pretoria for them, a service which will cost between R1000 and R1500 (Interview 10, 08/11/2014); source a South African citizen or temporary resident who will claim to be the immigrant's employer for a work permit (Interview 10, 08/11/2014); or as an attorney will take the DHA to court when an application is unfairly dismissed. In this research project, I am primarily interested in the actors who helped with immigration documentation, particularly the applying for and obtaining permits and visas.

As I showed in the second section of my literature review, immigration brokers and the role that they play change in response to a number of social factors. Through this research, I wanted to understand who these brokers and intermediaries are today and how they capitalise on the desperation of immigrants.

1. Introducing Immigration Practitioners

I placed immigration intermediaries on a continuum based on the services that they offer their clients. On the one end of the spectrum are intermediaries who offer a wide range of services to highly qualified immigrants and the companies for whom they work. This end of the spectrum is characterised by big business interests and an ability to provide multiple services. The other end of the spectrum is characterised by illegal activity and the offering of one particular service to immigrants who are usually low-skilled or unskilled.

[4] The South African Qualifications Authority oversees the development and implementation of the National Qualifications Framework which includes recognising professional bodies and evaluating foreign qualifications to determine their equivalence to South African degrees (http:www.saqa.org.za/index/).

On the one end of the spectrum there are the professional services companies: Deloitte, Price Waterhouse Cooper (PWC), Ernst and Young (EY), and KPMG. According to an interview conducted with Lino de Ponte, the head of Global Employer Services for Deloitte, Africa and the Middle East (Interview 12, 18/11/2014), these four companies are the only four globally with the capacity to offer the full range of services to multi-national companies with expatriate programmes. Not only do they help their clients with permit applications for the client and their family, but they will organise accommodation, schooling for children, run a split payroll for tax purposes, and take care of any taxable presence that the client creates in any given country (Interview 12, 18/11/2014).

Next on the continuum are immigration attorneys and advocates who will litigate on immigration matters. Attorneys did not, under the 2002 Immigration Act, have to write the immigration practitioners exam in order to offer immigration advice and services. Most attorneys who offer immigration services offer similar services as immigration practitioners, with regards to permit applications. I was able to identify three law firms which specialise in immigration law in Gauteng. Although other firms offered immigration advice, Interview 15 (04/12/2014) confirmed that these are the three firms in the province who routinely take on immigration litigation. Where attorneys differ from practitioners is that they are able to litigate if an immigrant's application is rejected or if they are declared undesirable. Immigrants also have recourse to the law if they are unsatisfied with the advice given or the behaviour of the attorney, and the payment system that most law firms have in place means there is little chance that an attorney can take advantage of a client (Interview 12, 18/11/2014).

The middle of the spectrum is itself a continuum of sorts. Immigration practitioners, people who have either taken the DHA exam or work with someone who has, take a variety of forms. On the one end there are companies like Fragomen who offer immigration services in multiple countries, and practitioners who have set up national businesses, with offices in Johannesburg, Cape Town, and Durban, with internal regulations and training (Interviews 3, 24/06/2014, and 5, 15/10/2014). On the other end, there are practitioners who operate individually in offices in areas like Alberton, on the outskirts of a major city (Interview 1, 13/06/2014).

Most of my research has focused on practitioners and that particular end of the spectrum of immigration intermediaries. What I was not able to do through this research was adequately document and understand the other, less formal end of the spectrum. Although I was able to interview one informant with information about the processes through which an immigrant could acquire forged documents, insights from which will be discussed later in this chapter, this is an area which could be explored further.

The term immigration practitioner emerged the same year as the 2002 Immigration Act. The Act included Section 46, a section that sought to bring immigration intermediaries under the supervision of the law, and, more specifically, the DHA.

> **46.** (1) No one, other than an attorney, advocate or immigration practitioner, may conduct the trade of representing another person in the proceedings or procedures flowing from *this Act.*
>
> (2) In order to be registered on a roll of immigration practitioners to be maintained by the *Department*, an immigration practitioner shall apply in the *prescribed* manner, producing evidence of the *prescribed* qualifications and paying any *prescribed* registration fee.
>
> (3) After affording him or her a fair opportunity to be heard, the *Department* may withdraw the registration of an immigration practitioner who has contravened *this Act* or any *prescribed* duty. (Immigration Act, 13 of 2002)

In May 2014, however, the enacted Immigration Regulations repealed this section.

Starting interviews when I enquired if the interviewee had written the immigration practitioners exam with DHA, or if there were members of their company who had, I was routinely corrected and told that 'immigration practitioners' are no longer provided for in South Africa's legislation. However, later on, when asked if they referred to themselves as an immigration practitioner or consultant, most were adamant that they are Practitioners and continue to fill largely the same role as they did under Section 46.

Most practitioners some reported camaraderie amongst themselves and belonging to the Forum of Immigration Practitioners in South Africa (FIPSA). I interviewed Gershon Mosiane, the chairperson of the organisation, who told me that FIPSA was created by a group of practitioners in the Western Cape. The previous organisation of practitioners, the Association of Immigration Practitioners in South Africa (AIPSA), was, as a result of bad management, dissolved. FIPSA was later extended on a national scale. Interview 12 (18/11/2014) provided a different perspective on how and why AIPSA was replaced by FIPSA.

As far as interviewee 12 (18/11/2014) was concerned, AIPSA functioned because Deloitte, KPMG, PWC, and EY, 'were the only ones who were prepared to pay (their) fees'. However, these four companies were unable to gain control of the organisation as they were outnumbered by smaller companies and individual practitioners – 'So we provided all of the funding, but had no control'. AIPSA, and later FIPSA, were created in part to add to the reputability of the profession

and give practitioners a voice in government. Companies like Deloitte boast a good relationship with government and so left AIPSA and are not members of FIPSA[5].

One of the changes in the 2014 immigration regulations (to be discussed further in *Chapter Five*) is the repealing of Section 46, the section in the 2002 Immigration Act allowing for immigration practitioners. The section firstly put a name to a profession that has always existed in South Africa, as the second section of my *Literature Review* indicated, and secondly provided some sort of regulation to the immigration industry. In order to be an immigration practitioner, to be able to give advice on immigration and represent immigrants at DHA, individuals had to write an exam with the Department and were then given a certificate. These exams have not been held since 2007 according to some sources, 2010 according to others. The two practitioners interviewed in Interview 7 (17/10/2014) claimed that the exam was put on hold in 2007 and ended completely in 2010; this may account for the different dates provided.

It was these individuals that FIPSA, and AIPSA, were created to protect. Currently 100 practitioners are members of FIPSA nationally. The total number of practitioners operating in the country however, debate. Some put the number at 55 000 (Interview 8, 22/10/2014), others at 20 000 (Intergate Immigration, 2014), while Mosiane claimed that there were only 300 practitioners nationally. The huge discrepancy between these numbers can partly be explained by the fact that a company might have one registered practitioner, but 27 employees working in the industry (Interview 5, 15/10/2014), and that many practice "illegally", without accreditation. But this cannot account for the whole discrepancy. When I contacted the DHA itself to ask how many practitioners are operating in South Africa, I received no response[6].

Several of the practitioners that I interviewed are not members of FIPSA. One of the reasons that they have decided not to join the organisation is the financial requirement of membership. FIPSA is also currently taking the DHA to court over the repealing of section 46 (Interview 6, 16/10/2014), and several practitioners feel that this is souring relations between the organisation and Department making the practitioners' lives more difficult (Interview 8, 22/10/2014). And, as such, they have elected not to join.

By their own admission, FIPSA is facing serious challenges with the repealing of Section 46 and has decided to try and get their own SAQA accreditation in order to regulate the industry itself, in a similar fashion to chartered accountants and tax consultants (Interview 7, 17/10/2014).

[5] Fragomen (Interview 14, 25/11/2014) do not belong to FIPSA either. Their policy is to 'shy away from any kind of organisation that represents civil organisations.'

[6] I tried to secure an interview with officials at the DHA on numerous occasions, but unfortunately was unable to do so.

Mosiane clearly felt that the registration of practitioners was important for immigrants, primarily so immigrants would know who is offering a good, reputable service, and would have recourse through an organisation if they were unhappy with the services of a practitioner. If they are given the go ahead by SAQA, which Mosiane is confident they will get, FIPSA will set up entry requirements to the organisation; practitioners will have to comply with a code of conduct, meet certain standards, and participate in training and exams set by FIPSA. The organisation will also investigate any complaint against a member and discipline them.

With regards to the court case over Section 46, Mosiane reports that the DHA is refusing to hand over the records detailing why the Department decided to repeal the Section, evidence, he believes, that the process was flawed and problematic. De Ponte (Interview 12, 18/11/2014) however, openly told me that Section 46 was repealed in consultation with 'the big four' – Deloitte, PWC, KPMG, and EY – in an effort to deal with corruption within and around DHA. The Department, De Ponte claimed, found that when a person was in possession of a forged document, or their application rejected they tend to blame their practitioner.

In 2010 the corruption between DHA officials and practitioners was so rife that the then Minister of the Department, Dlamini-Zuma, pulled the authority of approving applications from regional offices and moved it to the head office in Pretoria. Here approvals were done by individuals who had no contact with practitioners or immigrants. While some felt it preferable that practitioners and applicants had no access to the officials who adjudicated their applications (Interviews 3, 24/06/2014, and 12, 18/11/2014), one of the practitioners (Interview 1, 13/06/2014) I interviewed claimed that this move created a backlog. He felt the adjudication process was more functional at a regional level. With regards to the allegations of corruption on the part of practitioners, Mosiane (Interview 6, 16/10/2014) believes that repealing Section 46 and allowing anyone to act as a practitioner will create more corruption and chaos, a sentiment echoed in many other interviews (particularly Interview 7, 17/10/2014).

The practitioner from Interview 5 (15/10/2014) claimed that fraudulent applications currently comprise 50 per cent of the market. How she arrived at this is unclear, but it speaks to the perception held by many practitioners that fraudulent documentation is extensive, and that they, the practitioners in question, offer a 'reputable', law-abiding service.

Mechanisms for dealing with corrupt practitioners remain absent even though corruption is believed to be widespread within the department and between practitioners and Department officials. Before the new regulations came into effect, technically a practitioner could be reported to DHA if a client was unhappy or another practitioner believed them to be breaking

the law. According to one interviewee, 'under Section 46 (you) could have a complaint laid against you and that would be put against your name, and DHA could then come and go through your company with a fine tooth comb and shut you down' (Interview 2, 24/06/2014). But according to others, there was never any evidence that the DHA did this or took any interest in complaints (Interviews 4, 13/10/2014, and 7, 17/10/2014).

Given the DHA's disinterest in practitioners, apart from the exam and the fact that they may or may not have investigated complaints, no training or refresher courses were ever offered to practitioners so most companies train their staff internally (Interviews 3, 24/06/2014, 5, 15/10/2014, 7, 17/10/2014, and 8, 22/10/2014). In Interview 8 it was recognised that this is not necessarily a good thing. The person doing the training may have an incorrect interpretation of the legislation, and so bad practice and incorrect information will be passed along (Interview 8, 22/10/2014).

There was a definite sense of camaraderie amongst the practitioners, manifesting in an "us and them" mentality – "them" being, on the one hand, companies like Deloitte who are trying to undermine the status of practitioners and encourage the state to implement a process which explicitly excludes them. And, on the other hand, "fly by night" practitioners who take immigrants' money without providing a service or giving them the wrong advice, consequently undermining the whole industry.

When I put it to De Ponte that the new regulations would make it more difficult for practitioners operating small businesses, he felt it preferable to have the smaller businesses shut down (Interview 12, 18/11/2014). Most of the practitioners I interviewed listed this as one of their greatest concerns, and one of my interviewees mentioned that he would have to dismiss half his staff as a result of the regulations (Interview 6, 16/10/2014). An interview with a larger firm indicated that downscaling of business operations was happening industry-wide they had recently hired several practitioners who used to run their own small businesses but had to shut down after the new regulations came into effect (Interview 14, 25/11/2014). Given this antagonism from Deloitte and the difficulties that small businesses do face, camaraderie amongst practitioners is understandable.

However, many other practitioners felt their services were still needed because they are more creative and have a better understanding of the legislation and its loopholes than companies that offer a wide range of services (Interview 1, 13/06/2014). Interviewee 1 provided am example of an elderly woman who wanted to come and live with one of her children in South Africa. Because she did not fulfil all of the requirements for a visitor's visa Deloitte could not help her. A practitioner, however, helped her apply for a Retired Person's Visa. During Interview

12 (18/11/2014), however, the same accusation, that of a lack of creativity and understanding, was levelled at immigration practitioners. The argument de Ponte provided was that companies like Deloitte have a global perspective and can identify loopholes in the legislation through comparing it with the counterpart legislation in countries like the UK and Germany. One of the big loopholes in the new regulations, he felt, was that in certain industries, specifically the IT industry which has no collective bargaining power and is a profession which lacks expertise in South Africa, foreigners can be employed more cheaply than nationals and as a result the local labour force is not protected. In fairness to the practitioner from my first interview, I think that both interviewees have a different understanding of 'loophole'. From de Ponte and Deloitte's perspective the loopholes of interest are with the legislation as a whole so that they can advise clients on where to implement expatriate programs or where it is easier to set up their headquarters. As far as practitioners are concerned, however, it is the loopholes in the application process that are important. Identifying these practical loopholes gives them a competitive edge over other practitioners who cannot help a client in a difficult situation.

What this section shows is that there are different types of immigration intermediaries in South Africa who offer varying kinds of services. Although there is antagonism between different actors – for example, between Deloitte and smaller immigration businesses – to a large extent these actors exist symbiotically. Through understanding the social dynamics and sociological profile of practitioners, in this next section I shed light on the social dynamics of the industry as a whole.

2. The social dynamics of intermediaries

One thing my interviews indicated, although not always explicitly, is that there is a definite racial dynamic to the immigration industry. Of the ten practitioners I interviewed, only one was black, the rest were white. The nature of my research, given that it is both qualitative and that I interviewed a small number of people, means that I cannot claim that most practitioners are white, or that there is a racial dynamic throughout the industry nationally. However, it is worth pointing out, that even when I was looking through websites of practitioners, their LinkedIn profiles, and at the list of practitioners provided on the FIPSA webpage (fipsa.co.za/member-practitioners/), black faces and names were few and far between.

I was fortunate enough to be able to interview an Indian immigrant who came into South Africa without documented and is now living in Fordsburg. He voiced the racial dynamics of the industry quite explicitly. I asked Interviewee 10, who jumped the border from Mozambique several years ago, about the agents that he dealt with both getting into South Africa and in getting documentation once in the country. He was quite emphatic that he was only willing to

deal with white and Indian agents: 'the black people I don't trust, I only trust white people, they'll make it (the documentation) legally'; later on he mentioned that black agents simply stole your money.

15 of the 18 individuals I interviewed were male. Although I only conducted 16 interviews, in two of the interviews two individuals participated. However, none of the female practitioners spoke of having experienced any gender discrimination in the industry, and the male interviewees made repeated reference to female colleagues. One the female practitioners owned the business herself, with a second being a joint partner. As I result, I ascertain that the gender profile of my interviewees is not a reflection of discrimination within the industry.

Although the practitioners I interviewed were primarily white men, they were by no means a homogenous group. It appears that while many practitioners come from a legal background, this is not a prerequisite for the industry. I spoke to practitioners with backgrounds in IT, the hospitality industry, and administration. It became clear to me that working as a practitioner was not something that they dreamt of doing or studied with the express intent of doing. Rather it was the flexible hours, that specific academic qualifications are not needed, the ability to work from home, and the increase in income compared to previous jobs that led many of them to become practitioners. Essentially, they saw a service that they could provide without having to invest much time and effort in becoming qualified or acquiring equipment.

For example, the practitioner interviewed in Interview 1 (13/06/2014) has a background in IT, but knew a pastor who was working at DHA and told him about the work that practitioners do, and which he thought interviewee 1 might enjoy. The two practitioners interviewed in Interview 7 both worked in the diplomatic core and DHA before deciding, in 2003, that working in the DHA was too frustrating and setting up their own business (Interview 7, 17/10/2014). Their business now employs almost exclusively both partners' family members. The practitioner from Interview 4 (14/10/2014) has taken over the business that his stepmother set up after she was retrenched. A family friend knew specific companies that needed the services of a practitioner and recommended that she take the exam and set herself up as one. Interviewee 4 had been working in the hospitality industry when he and his wife decided that they wanted to move to where their children could go to school, and they could earn more than they were earning in hospitality. Two of the practitioners that I interviewed were foreigners themselves, one in fact cited his terrible experience of trying to get a visa and spousal visa for South Africa as one of the reasons that he decided to become a practitioner and help others in a similar position (Interview 2, 24/06/2014).

The practitioners I spoke to who employ other practitioners said that by and large no specific background is preferable for a potential employee, although proficiency in international languages is definitely an asset (Interviews 3, 24/06/2014, 7, 17/10/2014, and 14, 25/11/2014). The only exception to this was De Ponte who prefers to hire attorneys who did their articles at smaller firms so that they have had some experience in dealing with magistrates, which they can use in their dealings with DHA staff (Interview 12, 18/11/2014).

Regardless of the fact that many practitioners seem to find themselves in the immigration industry incidentally, most reported job satisfaction and enjoyment. Many spoke about having a 'passion' for the work and finding it particularly interesting and, even when it did not pay as well as expected (Interviews 8, 22/10/2014; and 14, 25/11/2014 in particular).

Given what I was able to garner from these interviews about the more informal intermediaries, I do not think that the sociological profile of the industry as a whole is white, but rather that as the nature of the business becomes more informal, the intermediaries themselves are less likely to be white and more likely to be foreign.

The insight I was able to get on the more informal end of the intermediary spectrum (Interview 10, 08/11/2014) was particularly informative in understanding the differences in the businesses operations of practitioners on the informal end of the spectrum and of practitioners like the kind I interviewed (Interview 7, 17/10/2014).

One of the most interesting discrepancies was in the fees practitioners charge. When asked, most of the practitioners indicated that including VFS and DHA application fees, and SAQA, a client would be charged around R15 000 for practitioner's services when applying for a general work permit. The amount varies greatly depending on whether the client would also like their police clearances, SAQA and Department of Labour approvals done, amongst other things. But on average, the amount would come to about R15 000, which in itself speaks to the exclusive nature of the service that practitioners are offering, discussed further in the next two chapters.

Interviewee 10, however, claimed that it would cost him R30 000 to renew his work permit through an agent. I initially assumed that this discrepancy was due to the fact that interviewee 10 meant he would need new counterfeit documents when he said he would soon need to renew his work permit. However, he assures me that he is here legally, and that his papers are from DHA. In order to get a work permit, an applicant's employer needs to be either a South African citizen or have permanent residency. One of the services a practitioner can offer is to source an 'employer' for an applicant if they are not formally employed or their employer does

not have one of the aforementioned statuses. This inflates the cost of an application by approximately R8000 and could account for the discrepancy.

My understanding of this profile is that practitioners capitalise on their race and the fact that they are nationals to add to the reputability of their business, and that these two factors lend themselves to the development of camaraderie. As mentioned, I do not think this social profile can be extended to the immigration industry as a whole, but rather that it can explain the dynamics of the industry – antagonism between different kinds of intermediaries and camaraderie amongst those who offer similar services.

The immigration industry has always involved different kinds of intermediaries but, to a certain extent, they have become more necessary as formal intermediary structures, like The Employment Bureau of Africa (TEBA), are used less.

3. A fragmented industry

Given South African's history of labour migration, and continued use of migrant labour in various South African industries (discussed in some detail in *Chapter Two*) I interviewed TEBA about the new regulations and their effect on the mining sector in particular (Interview 13).

In 1997 the mining sector was certainly the primary employer of foreigners in South Africa. TEBA has, since 1977, sourced both immigrants and internal migrants for mining companies (Budlender, 2013, p. 70). Crush et al (2001) report that mines employ sub-contractors to hire labour for the;, the sub-contractors will in turn either hire labour through labour brokers, TEBA, or directly. Budlender reports that TEBA is responsible for roughly 80 per cent of the employees on South Africa's gold and platinum mines (Budlender, 2013, p. 71). However, both the 2002 Mining Charter (amended in 2010) and 2002 Immigration Act brought much stricter criteria for hiring foreigners leading to an inevitable decline in the number of foreign workers on the mines, confirmed in my interview with TEBA. When asked about the adverse effects of the new regulations on TEBA, the response was that the new regulations will have an 'insignificant impact on TEBA's business' as the 2002 Act and Charter did all of the 'damage' by making it sufficiently difficult to hire non-nationals. Today recruiting counts for less than ten per cent of TEBA's core business. According to TEBA, foreigners can no longer follow a career on South Africa's mines as they may only be employed for three years at a time and may not be promoted (Interview 13, 19/11/2014)[7].

[7] This is strikingly similar to Burawoy's description of the mines in 1976 in which he said that 'although mine owners wished to advance blacks into more skilled occupations, their efforts were obstructed as

Prior to the 2002 Act and 2003 Charter, TEBA infrastructure throughout Southern Africa was able to facilitate the hiring and repatriation of mine labour as well as provide a 'remittance order system' through which miners could send remittances home. Given the decline in the number of non-nationals that are recruited by TEBA, this infrastructure is becoming increasingly expensive and difficult to maintain (Interview 13, 19/11/2014). Through the interview it was revealed that TEBA is trying to 'reverse its machinery' and, instead of using the infrastructure to bring foreign labour to South Africa, is using the infrastructure to ensure that former miners are aware of their rights, that they are entitled to a bi-annual medical check-up, for example, and can access their benefits (Interview 13, 19/11/2014).

Although 60 per cent of the labour force remains migrants, primarily internal migrants, the number of immigrants on the mines is declining by 8 per cent per annum (Interview 13, 19/11/2014). According to the Quarterly Labour Force Survey of 2012, only 8% of the labour force on the mines were not born in South Africa. And while 29% of the miners came from other provinces, the overwhelming majority, 63%, came from within the province in which the mine itself was located (Budlender, 2014, p26, Table 21). In 1960, for example, 58,7% of the labour force on the mines was not South African born (Harington, McGlashan & Chelkowska, 2004, p67, Figure 2). The continual pressure on the mining sector to hire locals above immigrants and internal migrants is indicated by the theme of the 2014 Mine Health and Safety (MHSC) tripartite Occupational Health and Safety Summit, *Every mine worker returning home unharmed every day, striving for zero harm* (Mothiba, 2014).

The radical restructuring of South Africa's migrant labour regime has fractured the employment of foreigners. Instead of most foreigners being employed in a single industry, non-nationals are now employed on a smaller scale by multiple industries, as discussed in *Chapter Two*. The immigration industry has mimicked this fracturing. Previously repatriation and remittances were handled by single, big agencies like TEBA. Now, given the fractured nature of the foreign labour force, the services offered by the industry are similarly fractured with smaller outfits and practitioners handing either immigration permits, or recruitment, or remittances.

Responding to the fracturing of the foreign labour force, the immigration industry comprises diverse groups of actors. The distinct lack of regulation of immigration practitioners means that this is a diverse group of individuals, from a variety of backgrounds with varying business

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early as 1893 by the legal enforcement of the colour bar which reserved a range of jobs for white workers' (Burawoy, 1976, p. 1054). Instead of a colour bar, we are now seeing a 'nationality' bar being implemented which seeks not only to prevent advancement for foreigners on the mines, but bar foreigners from the mines altogether (Interview 13, 19/11/2014).

operations. However, it has also resulted in camaraderie amongst intermediaries who offer similar services and are looking to protect their economic interests.

Although practitioners do feel that their businesses and economic interests are in an increasingly precarious position as a result of the new Regulations, in the next chapter the relationship between the DHA, intermediaries, and immigrants will be explored and highlight the value of the services offered by intermediaries for both the DHA and immigrants.

Chapter Five: Negotiating the DHA

A better understanding of who the immigration intermediaries are is important in trying to understand the relationship between these intermediaries, the DHA, and immigrants themselves. The nexus of this relationship is important when trying to understand the impact of the immigration industry on the structures emerging in and around migration. This chapter unpacks this relationship in some detail, focusing on the DHA's efforts to emulate the developed world in its approach to immigration, and the increasingly restrictive criteria that the DHA is putting in place that effectively close Peberdy and Crush's 'front gate' to increasing numbers of people. The following chapter examines the effect this has on the back gate (Peberdy & Crush, 1998).

The need for immigration practitioners, or intermediaries of any form, arises primarily out of an inability to effectively manage migration on the part of the state. In South Africa for example, the cumbersome application process and fact that the DHA are distinctly uninterested in helping applicants fuels the need for intermediaries. In this chapter I show how intermediaries as a whole have limited influence over the structures that govern immigration in South Africa. Instead, their power comes from learning to navigate these structures and their offer of legal entry to desperate immigrants. Their role becomes more important as the state moves to close the front gate into South Africa.

Post-1994, the DHA has persistently displayed disinterest in managing migration effectively. In my *Literature Review*, work by Segatti, Crush, and others was discussed which argues that post-1994 the DHA has implemented policy which does not respond to any of the actual realities of migration in the region. Instead it responds to a specific perception of migration which they have created. One of the issues on which most of my interviewees did agree was that the new immigration regulations continue to ignore the realities of immigration within sub-Saharan Africa. Whether this is a good or bad thing, however, is up for debate. Furthermore, the applications for visas and permits are cumbersome, staff is largely untrained and unable to offer practical advice to applicants, and the adjudication of applications is an opaque process through which immigrants have little recourse if their application is rejected (Interview 1, 13/06/2014, Interview 5, 15/10/2014, Interview 6, 16/10/2014). The result is that immigrants rely on practitioners not only for advice but in following up applications and lodging appeals.

1. Emulating the developed world

However, the un-regulated nature of South Africa's immigration industry is in stark contrast to the immigration industry in countries whose legislation South Africa is trying to emulate. One of

the justifications for South Africa's interest in closing its borders post–1994, and of the increasingly harsh regulations of 2014, it is in line with international standards (Oucho & Crush, 2001, pp. 142 - 148). 'The new Act has brought South African regulations into the 21st century' (Interview 2, 24/06/2014) was a sentiment expressed by several of the practitioners I interviewed. Many felt that the regulations themselves were not necessarily problematic; the fact that immigrants now have to apply for a visa or permit in their country of origin and cannot change from one permit to another while in South Africa is in line with international standards and "right", many would argue (Interviews 2, 24/6/2014; 12, 18/11/2014; and 14, 25/11/2014). In fact, the new regulations, it was claimed in Interview 12 (18/11/2014), 'are a carbon copy of the German regulations.'

The 2002 Immigration Act, by introducing a space for intermediaries with Section 46, followed an international trend of regulating immigration industries. Although, as mentioned in *Chapter Four*, even under Section 46 practitioners and the industry as a whole remained largely unregulated. The move in 2014 to do away with the meagre regulation that did exist, however, is largely contra to international practice.

Canada, the United Kingdom (UK) and United States (US), amongst other countries, all have highly regulated immigration industries. For example, in Canada, Immigration Consultants (Consultant is used rather than practitioner) undergo a yearlong course and have to pass an exam; they are subjected to background, financial and criminal checks, and are expected to take annual refresher courses. All registered Consultants are listed online on the Immigration Consultants of Canada Regulatory Council's website (http://www.iccrc-crcic.ca/home.cfm) and blacklisted if the Consultant breaks any law or the Code of Professional Ethics laid out by the council, or an audit reveals problems (Interview 8, 22/10/2014). Laying a complaint against a consultant is a process that can easily be done online, and if such a complaint is found to be valid or an audit does not come up clean, the Consultant in question is blacklisted by the ICCRC.

Similarly in the UK, the Office of the Immigration Services Commissioner (OISC) 'regulates immigration advisers, ensuring they are fit and competent and act in the best interest of their clients' (Office of the Immigration Services Commissioner). Legal advisors or members of the bar are exempt from being registered with the OISC, similar to the South African 2002 Act in which attorneys could offer immigration advice without becoming a registered practitioner (Interview 15, 04/12/2014). In the US, on the other hand, practicing lawyers are the only people allowed to dispense immigration advice (Interview 14, 25/11/2014). The OISC website also provides a code of standards, a guide to fee structure, and templates for complaints against advisers (Office of the Immigration Services Commissioner; Interview 14, 25/11/2014). In

contrast, the DHA offered none of this regulation and oversight, and when the practitioners exam was offered by the DHA, the 'exam could be learnt and sat in a week' (Interview 2, 24/06/2014).

Given this lack of regulation and accountability, it is hardly surprising that practitioners would be blamed for any and all corruption in and around immigration. This, according to Interviews 7 (17/10/2014) and 12 (18/11/2014), is the reason Section 46 was repealed. On several occasions I tried to ask DHA officials why this section was repealed, but received no answer.

Corruption is not, however, exclusively found in immigration related services at the DHA; unilateral mismanagement has resulted in corruption throughout the department. In 2004 then Minister of Home Affairs, Nosiviwe Mapisa-Nqakula, implemented the Turnaround Strategy which, with a R1-billion budget, was expected to produce vast improvements throughout the DHA (Segatti, Hoag, & Vigneswaran, 2012). Arguably the Strategy did not meet all of its aims, but several areas of the Department did improve. Immigration services however, did not. One view of the outsourcing of visa and permit services to VFS is that it is the DHA's way of dealing with service delivery and corruption in immigration services. However, it is also part of a New Public Management paradigm throughout the South African civil service (Segatti, Hoag, & Vigneswaran, 2012).

Post-1994, the South African civil service followed a distinct trajectory of fragmentation following the adoption of the New Public Management paradigm (Segatti, Hoag, & Vigneswaran, 2012). The outsourcing of immigration services to VFS is part of the general trend of this paradigm which has seen the outsourcing of public services happening throughout government departments. With the introduction of VFS, the DHA is again outsourcing its responsibilities with regards to immigration, this time, however, in a more systematic fashion.

VFS Global is an international company which manages visa applications in multiple countries, including the UK and Canada. Their South African subsidiary, VFS Visa Processing SA, won the controversial R 1billion tender from the DHA to run South Africa's visa services. A report in *The Sunday Times*, published several weeks after the new Immigration Regulations were announced, claimed that the process through which VFS won the tender was problematic and corrupt. The report claimed, among other things, that the tender was specifically tailored for VFS, requiring 'the winning bidder to have a "proven track record of successful implementation of visa facilitation services elsewhere"', which meant that any South African companies were excluded after the first round (Hofstatter & Wa Afrika, 2014). As well as having no black empowerment partners, VFS must have had insider knowledge with regards to the bid given that the tender was only minimally advertised minimally a month before the deadline, and the assistant to the

official in charge of awarding the tender then took up employment at VFS. Legal opinion is that the tender was in fact unlawful as 'the Immigration Act and Treasury rules do not allow the department to delegate powers to a private company to collect fees and receive and store the personal information of applicants' (Hofstatter & Wa Afrika, 2014).

Another source of complaint was the additional cost for applicants. Not only do applicants now have to pay VFS fees on top of DHA fees, but the VFS fees in South Africa, practitioners feel, are unreasonably high compared in particular to countries like Canada (Interview 8, 22/10/2014). One of the practitioners in Interview 8 (22/10/2014) claimed that it costs R307 to submit an application for a Canadian visa, although this may increase to R1000 if biometrics are needed. In South Africa however, the application fee for VFS is R1350 (Donnelly, 2014; Hofstatter & Wa Afrika, 2014). This then has to be paid on top of the DHA application fee. When I put this to de Ponte (Interview 12, 18/11/2014), he argued that Canada receives about 100 000 visa applications a year, while South Africa receives only 20 000 and that the higher cost was simply about supply and demand (Interview 12, 18/11/2014). Interview 14 (25/11/2014) agreed that the application is far cheaper in South Africa than in many other countries:

> Kenya and Nigeria are the big competitors and in Kenya a two year work permit costs (the equivalent of) R4500 and in Nigeria $1500 and here it's about $50, and that's pathetic really (Interview 14, 25/11/2014).

The Competition Commission was asked to investigate the cost of VFS fees and 'allegations of market dominance' (Donnelly, 2014), but decided against referring the matter to the Competition Tribunal finding (Sidimba, 2014).

2. Closing the front gate

De Ponte said 'VFS has made applying for a permit for a Zimbabwean dude who's arrived with R50 in his back pocket, prohibitively expensive. But are those the types of people we want to be in SA?' (Interview 12, 18/11/2014). On my understanding, this is indicative of the general feeling of the DHA and the government towards the immigration process; that it should allow skilled individuals with financial capital in, but stop a 'dude who's arrived with R50 in his back pocket' from legal status. In other words, the front gate should be firmly shut to most people in the sub-Saharan region.

Apart from the increased expense, participants had three other complaints about the new regulations, all of which indicate that access to the front gate has become more difficult. Their second complaint was the short, or non-existent, transition period from the old regulations to the new ones (Interviews 1, 13/06/2014, and 8, 22/10/2014). This, along with a serious

concern over the lack of education and awareness of the new regulations at DHA, VFS, and the South African embassies; 'We've also experienced, now we've got to submit visas or applications to the embassies, and the embassies have got no idea what they're meant to do, how they're supposed to do it, they just refer you back to head office, and head office just says 'well here is the notice that was sent out to everybody,' well your mission doesn't know about it.' (Interview 8, 22/10/2014) Interview 7 (17/10/2014) confirmed that the embassy staff are largely unaware of the new legislation.

The helpline set up for the new Zimbabwean Dispensation (ZSP) has also, practitioners say, been giving out incorrect information (Interview 8, 22/10/2014). The ZSP will be further discussed in *Chapter Six*, but one of the requirements for the ZSP is that you were issued a permit under the previous dispensation (DZP). However, if you phone the VFS helpline they say that any Zimbabwean is eligible for the new permit. Many of the practitioners I interviewed remarked that applying for a visa or a permit is something that a person can do by themselves but, on top of DHA and VFS staff being rude, it is unlikely that an applicant will be given advice or correct information (Interview 5, 15/10/2014, 7, 17/10/2014, and 8 22/10/2014). On top of this, most practitioners claimed that using their services increased an applications' chance of success (Interviews 3, 24/06/2014, 4, 14/10/2014, 5, 15/10/2014, and 7, 17/10/2014).

Furthermore, the VFS online system, one of the service provider's big selling points, is proving to be problematic - emails bounce back, the website continually shuts down, or logs the applicant out. Some also report losing applications (Interview 8, 22/10/2014).

> 'You'd complete a page, it'd take you out, you'd have to log back in, you complete another page, kick you out. Then you phone them 'oh we're having a glitch this week, try again next week,' but for someone who's visa is expiring, you have to get within 60 days, you're not going to get it in on time.' (Interview 8, 22/10/2014)

Although the DHA appear to have tried to consolidate the outsourcing of immigration services to one entity, it is unlikely that the need for practitioners and intermediaries will disappear. The DHA has not implemented immigration policy that takes into account the realities of migration in the region, and thus will not effectively manage migration, and the process remains sufficiently cumbersome and confusing that practitioners' advice be needed.

As it stands, the new regulations have made the process of applying for a visa or permit more difficult in four respects. The first is that the process is now more costly given the addition of VFS fees (Interviews 8, 22/10/2014) and the increased need for a practitioner. Now, not only must an applicant pay the DHA application fee, for police clearance, medical examinations, and for a SAQA evaluation, but also the VFS application fee (Interview 2, 24/06/2014, 7,

17/10/2014, 8). Given the confusion around the new regulations, more applicants are turning to practitioners, again increasing the cost of their applications. 'As practitioners we get absolutely inundated with simple enquiries' (Interview 7, 17/10/2014) because 'let's be honest, an immigration application is not a straight forward application…you need to have someone to advise you which is the right permit and what the supporting documents need to be' (Interview 6, 16/10/2014). The inability of DHA and VFS staff to help applicants further encourages the use of practitioners. In fact Interview 7 (17/10/2014) suggested that 'Home Affairs has made it that difficult for work permits that a person off the streets wanting to apply…it would be virtually impossible for them to get one' (Similar sentiments expressed in Interview 2, 24/06/2014). One interviewee remarked that she 'feel(s) sorry for the applicants that have now not got anywhere to go, um, and rely on VFS to assume that if their pack is taken in, their visas going to be fine, and then they're going to get the shock of their lives six to eight weeks later' (Interview 8, 22/10/2014).

The second factor which makes the application that much more difficult is the increasingly harsh criteria for visas and permits, discussed further in *Chapter Six.*. The third factor is the fact that applicants are now required to apply for permits from their country of origin. Although this was widely argued by interviewees to be in line with international standards (Interviews 12, 18/11/2014, and 14, 25/11/2014), it was recognised that many immigrants to South Africa do not come from places that can easily be returned to. The nearest South African embassy can be hundreds of kilometres away from home for say a miner in Mozambique; the nearest and easiest place for him to apply may in fact be in South Africa (Interview 13). One interviewee, an immigrant from Cote d'Ivoire, explained to me why many immigrants find themselves in an irregular and undocumented position:

> 'The South African government will give you that one month (on a visitor's visa) and then tell you that you can't renew your visa, you have no options, you have to return to your country to renew it there. A person who finds himself in that situation, who doesn't have the means, the resources to go back to his home country…and back again, who doesn't work, who probably has a family in South Africa. So, this person automatically becomes illegal in this country because he doesn't have the means to fly back. You go to Ivory Coast, you're going to pay something between seven and nine thousand rand for your return ticket.' (Interview 3, 05/08/2014)

Although the new regulations now prohibit coming into the country on a visitor's visa and then changing to a work permit, many immigrants will now incur not only travel costs but also loss of income as they will be unable to earn during this period.

The fourth, and final, factor is that applications now require access to the internet (Interview 8 (22/10/2014), 13 (19/11/2014)). Given the reported technical difficulties with VFS, internet access is needed for a long period of time. Practitioners report taking two weeks to submit three DZP applications due to difficulties with the website (Interview 8, 22/10/2014).

One positive change as a result of the new regulations, which most participants agreed on (Interviews 1, 13/06/2014, 3, 24/06/2014, and 12, 18/11/2014) is the new critical skills list. Previously, lists of scarce skills were published with quotas attached to each. The lists were notoriously unreliable and, on one occasion, Interviewee 2 recalled, IT professionals were taken off the list for no apparent reason. On top of that, there was never any enforcement of the 'quotas' which were set for specific professions (Interview 2, 24/06/2014). However, one of the participants noted that the current list is still wanting given its exclusion of professionals in the oil, gas, and renewable energies sectors (Interview 9, 07/11/2014).

Although the list includes 'doctoral graduates', many academics working at universities across the country have had their applications for work permits rejected. I interviewed Tawana Kupe, Deputy Vice Chancellor at Wits, who claimed that Higher Education South Africa (HESA), an organisation of Vice Chancellors in South Africa, had approached the DHA about this, but although they have been referred to a specific Deputy Director General of Immigration Services, no head way had been made (Interview 16, 12/12/2014).

Furthermore, in order to apply for a critical skills work visa, the applicant needs to register with the relevant professional bodies in South Africa and obtain confirmation letters confirming their skills. Apart from this 'newly monopolistic position that such professional bodies have acquired' through the new regulations, inflating application prices dramatically (Interview 9, 07/11/2014), academics do not belong to professional bodies. Again, this speaks to how access to the front gate is becoming increasingly more difficult, as highly skilled academics are struggling to access it. It also speaks to the influence that companies like Deloitte have on immigration structures and bureaucracies. Given that the new regulations were drafted in extensive consultation with Deloitte, and Deloitte have no interest in academics and are exclusively interested in the access that highly skilled businessmen can have to South Africa, it is unsurprising that academics are struggling to obtain visas.

Some practitioners were concerned that the repealing of Section 46 and the requirement that applicants present themselves in person at VFS would affect their business. But many more believed that the lack of staff training at both DHA and VFS on the new regulations, as well as the cumbersome and complicated applications, and opaque adjudication process, will increase the need that immigrants have for practitioners.

The need for practitioners arose as a result of the DHA's inability to manage migration effectively. And given the four factors just explored in detail and the problems experienced as a result of the new critical skills list, preliminary indicators would certainly suggest that VFS will not be able to manage migration either and will become instead a glorified 'post office'. Immigrants still need intermediaries, and particularly practitioners, if they are trying to access the front gate to South Africa.

I would therefore argue that intermediaries, with the exception of Deloitte, KPMG, PWC, and EY, have very limited influence on the decisions taken around immigration by the DHA and the structures that emerge as a result. Intermediaries do, however, have some effect on the migrant social networks. Interviewee 4 (14/10/2014), for example, deals almost exclusively with academics. His advice and the effects thereof – whether his clients' applications are successful or not – do have an effect on the social network of foreign academics.

The influence that actors like Deloitte are able to exert over the DHA and the processes and bureaucracies of immigration continue to ignore the realities of migration in the sub-Saharan African region, trying instead to emulate the processes and bureaucracies of more developed countries. The result it that as immigrants try to access a front gate, which is increasingly more difficult, the role of the immigration practitioner and the promise that they offer – of being able to get a visa or permit – becomes more powerful. The space for intermediaries in the emerging structures around immigration remains and grows.

Understanding the relationship between immigration intermediaries, the DHA, and immigrants themselves, has allowed for a better understanding of the structures emerging in and around migration. This increasingly elusive front gate now necessitates an understanding of the back gate into South Africa.

Chapter Six: Reproducing a precarious migrant class

In *Chapter Five* I showed how recent regulations are trying to shut the front gate, and the option of legal entry into South Africa, to many immigrants in the region. What I hope to do in this chapter is show how these regulations, specifically the repealing of Section 46, which allowed for practitioners in the 2002 Act, fit into the general trajectory of South Africa's immigration policy. Primarily through allowing for the back gate to remain firmly open in order to ensure a precarious migrant class remains in South Africa. This chapter will answer my third research question: whose interests do immigration intermediaries serve?

1. Continuing the two-gate policy

The repealing of Section 46 fits into the trajectory of South Africa's immigration policy because it undermines practitioners as a whole, making them desperate to show that they are professionals and offer a good, legal service. "We are a reputable business, we have a good reputation" was a sentiment that was expressed by most of the practitioners I spoke to, often assuring me that they did not deal with undocumented immigrants or bribe officials (Interviews 2, 24/06/2014; 5, 15/10/2014; and 7, 17/10/2014 in particular). This means that access to the advice and services that practitioners offer is limited to highly skilled, documented immigrants, making the front gate even more inaccessible to immigrants who do not fit into this category. Because practitioners are no longer provided for by legislations, this further undermines any bargaining power or influence that practitioners might have on immigration infrastructure, which as we already know from *Chapter Five* is severely limited. As practitioners are most likely to know what kind of visa and permit application process would be most accessible to immigrants, their exclusion from talks around immigration regulations and inability to influence these immigration structures further excludes the possibility of legal entry to many immigrants.

This allows for two continuities with past immigration legislation. The first is that through not recognising the role that practitioners and other intermediaries play, and undermining their insights, the state continues to ignore the realities of immigration in sub-Saharan Africa, something the state has done consistently since the 1913 Immigration Regulation Act. The second is that, through ignoring the realities, and thus excluding entry into South Africa via the front gate for many immigrants, the state ensures that the back gate will continue to be used; as a result, a precarious migrant class continues to be reproduced in South Africa.

In making this argument, I will begin with a brief summary of similar work that Paret has done on American immigration policy and its use in the creation of a precarious migrant class. Then, relying on work by Crush, Peberdy, Segatti, and Glaser, I will show how since 1913 South

Africa's immigration legislation has led to the creation of such a class. Finally, I will show how recent legislation, the 2014 Immigration Regulations and Zimbabwean Special Dispensation Permit (ZSP), have continued in this vein and ensured that there will continue to be a precarious migrant class in South Africa. Understanding the precarity of immigrants in South Africa is important in understanding the immigration industry; it is this precarity and the desperation for documents that drives immigrants to seek out the services of the immigration industry, particularly those of immigration practitioners.

Jonathan Klaaren writes that there are two kinds of immigration legislations; 'laws relating to…the admission of persons to and removal of persons from the territory of South Africa', and 'laws dealing with policy towards immigrants…who are inside the borders of the country' (1998, p. 56). My interest in this research is primarily legislation of the first kind, regulations pertaining to the entry and exit of foreigners, the categorisation of who is desirable and who is not as far as the host state is concerned.

In understanding what a 'precarious class' of migrants might look like, I draw from Gibney's theory of precarious residents and Standing's theory of the precariat. Gibney defines precarious residents 'as non-citizens living in the state that possess few social, political or economic rights, are highly vulnerable to deportation, and have little or no option for making secure their immigration status' (Gibney, 2009, Abstract). While Standing's precariat does not exclusively consist of non-citizens, it does include them as part of the 'multitude of insecure people, living bits-and-pieces lives, in and out of short-term jobs, without a narrative of occupational development' (Standing, May 2011, p. 1). What can be taken from both theories is that the precarious situation of a non-citizen is one with little or no recourse to the law, limited mobilisation opportunities, and leads to non-citizens accepting poor working conditions and wages.

Given the hostile attitudes of South Africans towards foreigners, and the perpetual 'othering' of non-nationals, it is tempting to understand immigrants as a separate class. However, the extreme precarity in which immigrants find themselves does not allow for class consciousness and, therefore, any unity to develop (Klotz, 2000; Landau, 2006). As such, the use of the term 'precarious migrant class' reflects more on the treatment of low-skilled immigrants as an exploitable group by the state and industry than a class consciousness of this group on itself.

I initially began thinking about this issue when reading Paret's article titled *Legality and exploitation: Immigration enforcement and the US migrant labour system*, extensively discussed in *Chapter Two*. The main point of the article is that immigration policy and legislation in the US has, regardless of the form it has taken, ensured that there remains a precarious migrant class

within the country. This is a point which is reaffirmed by Ferguson and McNally when they write about immigration legislation in the US and the fact that it is 'abundantly clear that heightened precarity of migrant workers is deliberate social policy' on the part of the state (Ferguson & McNally, 2015, p. 5). Immigration legislation in the US has consistently been 'simultaneously destructive and productive' Paret argues, and I argue that the same could be said about immigration legislation in South Africa.

While in the US legislation has resulted in a change on the emphasis from 'legalisation' to 'illegalisation' by the labour market, in South Africa the emphasis has primarily been on 'illegality'. South Africa's immigration legislation has created a distinction between 'documented' and 'undocumented' to the extent that undocumented immigrants are placed in precarious circumstances and are willing to accept poor pay and dangerous, 'dirty' work in order to remain undetected and unreported. As previously mentioned, Peberdy and Crush describe South African immigration legislation throughout the twentieth century in South Africa as having taken the form of a "two-gate policy": the first and front gate was opened for those who were "desirable" by the then-current public dispensation, discussed in *Chapter Five*; and the second, or back, gate allowed cheap, black, migrant labour to enter and ensured South Africa's economy continued to grow (1998, p. 34; Segatti, 2011, p. 34). This back gate is both 'destructive and productive' in the South African context. The 'destructive' element manifests in the labour force and their sending communities who are responsible for the reproduction of this labour force; and the 'productive' element manifests through the benefit of cheap labour for the economy and labour intensive sectors (Burawoy, 1976).

It was only in 2002 that a real break was made from the 1991 Aliens Control Act with the enactment of the Immigration Act. Although many maintain that this new Act achieved little in terms of migrant rights and opportunities, Segatti argues that there are three respects in which it did change: 'refugee matters, public accountability and due process of migration policy, and the government's position on xenophobia' (2011, pp. 46 - 48). However, despite the involvement of an increased number of stakeholders in the form of advocacy groups and the media, and an increasing body of case law that set precedent for the protection of migrants, only those who are able to afford legal fees or convince an NGO to help them have really benefitted.

2. Reproducing a precarious migrant class

In 2014 there were two significant pieces of immigration legislation that came into effect. In the following section, I want to argue that both, like the legislation before, ensure the reproduction of a precarious migrant class in South Africa.

In May, the 2014 Immigration Regulations, following the trajectory set by its predecessors, brought with it increasingly restrictive criteria for visas and permits. For example, under previous legislation a person seeking a business permit (s17 of the Immigration Amendment Act 19 of 2004; and s14 of the Immigration Amendment Act 3 of 2007) had to show that they had or would invest at least R2.5 million in the South African economy. Since the new regulations, that amount has been increased to R5 million (Interviews 7, 8 and 9). Immigration practitioners report that now immigrants who would have applied for a business visa are now having to apply for other permits, limiting their ability to run their own businesses and economic mobility. The practitioners interviewed in Interview 8 (22/10/2014), for example, told me that a client of theirs, who has already had two business permits, has invested R5 million in South Africa, runs two businesses, and employs 24 South Africans has recently been denied a renewed permit, and now has to think of a way around the bureaucracy. Although it must be noted that a person who has R2.5 million to invest, but not R5 million, is not in any way precarious, this is a good example of the shift in criteria from the 2002 Act to the 2014 Regulations.

A second example can be found in the new Zimbabwean Special Dispensation Permit (ZSP), successor to the Zimbabwean Documentation Project (DZP) of 2010. This is a good example of the increasingly restrictive nature of immigration legislation in South Africa. The 2002 Act allowed the Minister of Home Affairs to create a "special dispensation" through which a particular category of immigrants could be given temporary permits (Segatti, 2011, p. 56). While the criteria for the DZP were lax in comparison to those normally required for visas and permits, the ZSP is open exclusively for Zimbabweans who have the DZP (VFS Global, 2014; Interview 8, 22/10/2014). This automatically excludes any Zimbabwean who has arrived in South African since 2011, and anyone who was unable to get the DZP in the short period that applications were open (Segatti, 2011, p. 56).

The DZP which was set up after the 2010 World Cup as an effort to document the number of Zimbabweans in the country is described by Segatti as 'emblematic of the Department of Home Affairs' (DHA) persistent ad hoc management of crises, poor communication and strategic skills, appalling lack of organization, and bad relationship with the NGO sector' (2011, p. 56). Most importantly, despite the inability of DHA to process all DZP applications received, no extension was granted (Interview 8, 22/10/2014). A similar situation has happened with the ZSP with close to 40 000 DZP holders missing the permit application deadline. News reports have cited problems with the VFS website, an inability to reach VFS via telephone, and a cumbersome process as the reason why Zimbabweans struggled to meet the deadline. At the time of writing,

DHA claims to have received 294 511 applications, of which 242 731 have been processed and granted (Chiumia & van Wyk, 2014).

Details from Interview 8 (22/10/2014) conducted with two practitioners support the claim that the DHA's poor administrative capacity hampers the process. While many Zimbabweans were excluded from the ZSP on the basis of not having a DZP, more are likely to be disadvantaged as a result of DHA's poor administrative capacity:

> 'It took us two weeks just to try and load ten applicants. We don't still have appointments for all 10 of them…we've booked three out of the ten in the last two weeks because you can't get through to the call centre.' (Interview 8, 22/10/2014)

The result of this is that many more Zimbabweans will be undocumented and thus less able to negotiate for better working conditions or wages, or have recourse to the law.

The 2014 Immigration Regulations and ZSP are fundamentally different pieces of legislation in a number of respects. The Regulations stipulate what the requirements are for permits and visas for any foreigner wishing to come into South Africa, and will remain intact until the Act is amended or repealed. The ZSP on the other hand pertains exclusively to Zimbabwean nationals already in South Africa, and is only a temporary solution. Permits granted through this dispensation only last until the end of 2017. However, regardless of these fundamental differences, both, in line with previous legislation, place emphasis on documentation and, as the above examples show how, both contribute towards the reproduction and maintenance of a precarious migrant class within the country.

Through making visa and permit application criteria increasingly stringent, the front gate and legal entry will undoubtedly be available to fewer immigrants. However, the South African state has also limited access to the front gate by limiting access to practitioners. An empowered, professional, efficient immigration industry and intermediaries would present a threat to the reproduction of precarious migrant labour. In particular, it would create the possibility for low-skilled immigrants to actually claim rights they are entitled to but have been prevented from claiming. Through repealing Section 46, and undermining the industry, the DHA have ensured that an empowered, professional immigration industry is unlikely to be realised, and that practitioners as a whole will offer their services to fewer immigrants in an effort to protect themselves.

A final interesting factor which contributes to the overall precarity of undocumented migrants is talk of immigration as a 'security threat' or issue. Society largely allows for the reproduction of a precarious migrant class because immigrants are perceived to be a problem: criminals who

come into South Africa and steal jobs and women from hardworking South Africans (Ilgit & Klotz, September 2009; Klotz, 2000; Landau, 2006). This ensures that any talk of decreasing the criteria for visas and permits is taken off the table and immigrants who do not meet harsh visa criteria remain precarious and a cheap source of labour.

The existence of a precarious migrant class does not mean that the South African state has purposefully created this. Given the opacity of the policy-making process within South Africa (Segatti & Landau, 2011, p. 31), and the fact that no government would admit that it has an interest in having an exploitable class within its country, such a claim would only be speculative. However, evidence does indicate that since 1913, South Africa's approach to immigration has created such a migrant class, that changes implemented in 2014 have continued in this vein, and that although the migrant labour regime has changed, continued emphasis on documentation and limiting the access of foreigners to South Africa has ensured that labour intensive sectors can continue to make use of cheap labour. New regulations have ensured that the cost of labour reproduction remains firmly with sending communities, and that the South African economy continues to benefit from cheap disposable labour.

The new Immigration Regulations have therefore severely limited any influence that intermediaries could have over immigrations structures, state structures and policy. It has also limited the influence practitioners will have in relation to social networks given the limited number of immigrants they can help. However, I would posit that intermediaries as a whole, particularly those on the more informal end of the spectrum, will find a growing need for their services and therefore increasingly influence social networks around migration.

I feel confident to claim that immigration intermediaries serve not only their own economic interests, but also the interests of the state. Immigration intermediaries are used by the DHA to limit access to the front gate into South Africa. Intermediaries feel the need to limit the immigrants they help to those who are desirable by the state in order to maintain their own credibility. Consequently, those immigrants who do not fit the bill seek out the back gate, placing themselves in a precarious position and ensuring the reproduction of a precarious migrant labour force.

Chapter Seven: Conclusion

Through this research I have tried to open the 'black box' around immigration intermediaries and the immigration industry in South Africa. Through taking a distinctively structural approach to migration I believe that this research allows for a better understanding of the political economy of migration and the interdependence of society, economy, and migration in South Africa.

This research report has centred on three questions:

i. Who are immigration brokers?
ii. How do these actors negotiate the legal frameworks governing immigration and the multiple enforcement agents of these frameworks?
iii. Whose interests do these brokers serve apart from their own economic ones?

Through this research I have come to understand that immigration intermediaries have responded to a need within South African society. Their presence has remained a fixture even with a change in the migrant labour regime, the democratisation of the state, and new immigration regulations, even though the industry as a whole has become more fragmented in response to the fragmentation of the foreign labour force. The lack of regulation in the industry means that it is largely open to anyone regardless of background. But, this research does suggest that the more formal end of the intermediary structure is most accessible to white South Africans located among firms located in South African and global big business, and more specifically the financial sector. Although sociologically they are a diverse group of individuals, they have all found some form of economic security through providing immigration services and advice.

This research has contextualised and shown the effects of the DHA's move to effectively outsourced visa and permit services to intermediaries, and now VFS. The formal outsourcing of immigration services to VFS does not look as though it will undermine the power that intermediaries given that the factors that have created a space for them – cumbersome application processes, a distinct lack of help for applicants from the DHA, among others – remain. The involvement of VFS should be seen less as an example of the DHA trying to regain control of migration and manage it effectively, but rather as the continued fragmentation of the civil service in South Africa under the New Public Management paradigm and therefore an acknowledgement of failure and incapacity.

Finally, this research shows that the 'two-gate policy' South Africa had towards migration during Apartheid is still in practice, evident in the increasing inaccessibility of the front gate and the reproduction of a precarious migrant class facilitated by the back gate.

Through conducting this research, it became apparent that the immigration industry provides vital services to immigrants, while simultaneously fulfilling the interests of the state and their own economic ones. Many practitioners are frustrated with the lack of regulation within the industry, and believe that it undermines their credibility. However, if the industry was heavily regulated it would likely exclude intermediaries who become practitioners precisely because they do not need to invest time and money into training, complying with various regulations, or would not pass rigorous background checks. It would likely also make the services of practitioners more difficult for immigrants to access, particularly those in a more precarious position with limited disposable income.

The existence of precarious immigrants in South Africa is a reality and can largely be understood as a by-product, if not the express goal, of immigration legislation and policy within the country. Taking immigration intermediaries as my point of focus has allowed a better understanding of the structures through and around which immigrants move and how the reproduction of a precarious migrant class has remained possible.

What this research has not been able to do is sufficiently investigate the more informal intermediaries within the industry and the services that they offer. As a result, one of the limits of this project is that I have not investigated the immigration industry as a whole, and therefore cannot provide a sociological profile of a number of the actors in the industry, or provide an overview of what kinds of actors operate within the industry. I have also not sufficiently investigated the relationship between the DHA, Deloitte, KPMG, EY, and PWC to really understand the motivations behind the new Regulations or the actors who claim to have influence over state immigration structures and processes.

However, my hope is that this research will bring to the fore the importance of understanding the actors and structures which enable immigration in sub-Saharan Africa, and has also answered Bakewell's challenge for research to lend itself to a better understanding of migration structures and the actors who are both shape and are shaped by them.

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Interviews Conducted

Interview 1: Interview with Pieter Britz, Immigration Practitioner, Alberton, 13 June 2014

Interview 2: Interview with Nicholas Hunt, Immigration Practitioner, Sandton, 24 June 2014

Interview 3: Interview with Marc Gbaffou, Chairman of the African Diaspora Forum, Yeoville, 5 August 2014

Interview 4: Interview with Garth Thompson, Immigration Practitioner, Parkview, 14 October 2014

Interview 5: Interview with Candice Jean Magen, Immigration Practitioner, conducted via Skype, 15 October 2014

Interview 6: Interview with Gershon Mosiane, Chairman of FIPSA and Immigration Practitioner, Sandton, 16 October 2014

Interview 7: Interview with Gerda Smith and Neville South, Immigration Practitioners, Alberton, 17 October 2014

Interview 8: Interview with Natalie de Beer and Deanne Acres, Immigration Practitioner and Canadian Immigration Consultant respectively, Randburg, 22 October 2014

Interview 9: Interview with Hans Kroll, Immigration Practitioner, questions answered via email, 6 November 2014

Interview 10: Interview with an immigrant (participant chose to stay anonymous), Fordsburg, 8 November 2014

Interview 11: Interview with Mandla Masuku, member of Zimbabwean Workers Union in South Africa, Central Johannesburg, 15 November 2014

Interview 12: Interview with Lino de Ponte the head of Global Employer Services for Deloitte, Africa and the Middle East, Groenkloof, 18 November 2014

Interview 13: Interview with Tim le Roux, Recruiting Manager at TEBA, Selby, 19 November 2014

Interview 14: Interview with Owen Davies, Immigration Practitioner, Rosebank, 22 February 2014

Interview 15: Interview with an immigration attorney (participant chose to stay anonymous), Illovo, 4 December 2014

Interview 16: Interview with Prof. Tawana Kupe, Deputy Vice Chancellor at the University of the Witwatersrand, Braamfontein, 12 December 2014

Appendix

Appendix A – Participant information sheet

PARTICIPANT INFORMATION SHEET

Title of research project: **Immigration practitioners, brokers, agents: Investigating the Immigration Industry in South Africa**

Investigator: Thea de Gruchy, Masters Student, African Centre for Migration and Society, University of the Witwatersrand

University of the Witwatersrand Ethics Clearance Certificate Protocol Number H14/08/23

Dear Sir / Madam,

I am conducting research on immigration practitioners and the role that they play with regards to immigration into South Africa. The purpose of this research is to understand the actors, processes, and organisations involved in bringing foreigners into the country. I am inviting you to participate in an interview to aid my research as I believe that you have a key understanding of the immigration industry in the country, a perspective which would be particularly valuable for the project.

Your participation is entirely voluntary – you may choose not to participate – and you can at any time withdraw from the project. Once the interview is complete, if you change your mind about the contents of our interview being used in my research, you may ask me to exclude your contribution from my analysis and the dissertation which it will lead to. No remuneration will be given for participation in the project. Neither will there be any penalties if you choose not to participate.

I will not share the content of our interview with any third parties, with the exception of my supervisor, Prof Aurelia Segatti. The content of our interview will be analysed and used in my Masters' dissertation, which will be available publicly. As such, I can exclude any details from my analysis which would make you identifiable to a third party.

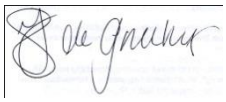
[Section only for those who can't be completely anonymous:

However, I would like your permission to include some details about your occupation or position which may make you identifiable to a third party. This is because I believe these details will add to my analysis.]

I do not foresee any risks in your participating in the project. This project is for research purposes, not bureaucratic or legal ones. This interview will involve a series of questions about your work and perceptions of immigration into South Africa. It will be recorded to ensure accuracy and will last approximately one and a half hours. I am happy to conduct the interview in a place of your choice.

Please feel free to ask me any questions that you may have about the research project or the interview both during the interview and afterwards. If you are prepared to participate, please sign the consent form.

Regards,



Thea de Gruchy
074 194 3331
theadegruchy@gmail.com

Supervisor's contact details :
Prof Aurelia Segatti
Aurelia.Segatti@wits.ac.za

Appendix B – Informed Consent Form

INFORMED CONSENT FORM

Title of research project: **Immigration practitioners, brokers, agents: Investigating the Immigration Industry in South Africa**

Investigator: Thea de Gruchy, Masters Student, African Centre for Migration and Society, University of the Witwatersrand

University of the Witwatersrand Ethics Clearance Certificate Protocol Number H14/08/23

	Circle your response
I understand that I am under no obligation to take part in this project	**Yes / No**
I understand that I have the right to withdraw from this project at any stage	**Yes / No**
I understand that I have the right to not answer a particular question for whatever reason	**Yes / No**
I have read/been read this consent form and the information it contains and had the opportunity to ask questions about them	**Yes / No**
The researcher has explained to me that the tapes will be transcribed (typed out) and used only for the purposes of this study	**Yes / No**
I agree to be interviewed for this research project	**Yes / No**
I agree to my responses being used for research	**Yes / No**
I give consent for my name to be used in the final research report	**Yes / No**
I give consent to be audio taped during the interviews	**Yes / No** **Signature:** _____

PARTICIPANT:

_____	_____	_____
Printed Name	Signature of Participant	Date

For verbal consent only (to be completed by researcher)

I ( ), herewith confirm that the above participant has been fully informed about the nature and conduct of the above study and has given verbal consent to participate in the study.

_____	_____	_____
Printed Name	Signature	Date

Appendix C – Interview Guide for Immigration Practitioners

INTERVIEW GUIDE FOR IMMIGRATION PRACTITIONERS

Title of research project:	**Immigration practitioners, brokers, agents: Investigating the Immigration Industry in South Africa**
Investigator:	Thea de Gruchy, Masters Student, African Centre for Migration and Society, University of the Witwatersrand

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Before interview starts:

1. Thank for interview and
2. Explain what I'm hoping to do with my research/ get from the interview
   a. Looking at 'immigration industry';
   b. Wanting to focus particularly on immigration practitioners – wide variety and at the moment I haven't narrowed it down – I want to look at how the wide variety of brokers and practitioners that exist navigate the laws and bureaucratic processes.
3. Ask for consent and permission to record – sign consent form and record

Talking points/Questions

1. Could you tell me a little bit about yourself? Specifically why and how did you become an immigration practitioner?
2. Do you still refer to yourself as an immigration practitioner?
3. How do potential clients find out about you and the services that you offer? Do you advertise at all?
4. Why do clients use your services? And not do it themselves?
5. What are their expectations of you?
6. How would you describe your average client? Is there a particular industry or sector which your clients are from?
7. Are you a member of FIPSA or any other organisations or associations for practitioners?
8. What is the size of your business? How many registered practitioners do you work with? Who are the other members of your business?
9. Given the hands off approach of DHA to practitioners, do you have in-house training for your staff?
10. Please explain the process that you go through when a client approaches you and you help them apply for a visa or permit?
11. What do you think have been the short comings of the immigration legislation (prior to recent amendments) in SA, pertaining specifically to immigration practitioners?
12. What do the recent amendments me for you, your business, and your clients?
13. Do you think that the addition of VFS to the process will be helpful?
14. What do you anticipate to be the shortcomings of the recent amendments?
15. How much does the average client pay you in the process? (just to be able to compare this with other kinds of IPs)
16. What, legally, is the exact process that you need to follow?
17. Do you deviate from this at all? Are there any shortcuts that you take?
18. What is your relationship like with DHA?

19. Do you know of any other practitioners that I could talk to?

Ending off interview

1. Thank, and reiterate the use of the data collected during the interview.
2. Remind participant that they can call at any time to ask about the project, and they can withdraw their contribution at any time up until the MA is submitted (February 2015).

Appendix D – Ethical Clearance

Research Office

HUMAN RESEARCH ETHICS COMMITTEE (NON-MEDICAL)
R14/49 de Gruchy

CLEARANCE CERTIFICATE	**PROTOCOL NUMBER H14/08/23**
PROJECT TITLE	Immigration practitioners, brokers, agents: Investigating the immigration industry in South Africa
INVESTIGATOR(S)	Ms T de Gruchy
SCHOOL/DEPARTMENT	Social Sciences/African Centre for Migration & Society
DATE CONSIDERED	22 August 2014
DECISION OF THE COMMITTEE	Approved Unconditionally
EXPIRY DATE	21/09/2016

DATE 22/09/2014 **CHAIRPERSON** E.M. Take pp (Professor T Milani)

cc: Supervisor : Prof A Segatti

DECLARATION OF INVESTIGATOR(S)

To be completed in duplicate and **ONE COPY** returned to the Secretary at Room 10000, 10th Floor, Senate House, University.

I/We fully understand the conditions under which I am/we are authorized to carry out the abovementioned research and I/we guarantee to ensure compliance with these conditions. Should any departure to be contemplated from the research procedure as approved I/we undertake to resubmit the protocol to the Committee. **I agree to completion of a yearly progress report.**

_____ _____/_____/_____

Signature **Date**